

TITLE V: PUBLIC WORKS

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CHAPTER 50: GARBAGE AND REFUSE

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Statutory reference:

Authority of town to pass ordinances to remove garbage and other waste, see IC 36-9-30-1 et seq.

' 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASHES. Residue from fire such as but not limited to those used for cooking or heating buildings.

GARBAGE. Wastes resulting from the handling, preparation, cooking and consumption of food, and wastes from handling, storage and sale of produce.

RECYCLABLE. All items of refuse to be part of a recycling program, and which are intended for transportation, processing, and remanufacturing.

REFUSE. Combustible trash, including but not limited to paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture, bedding, noncombustible trash, including but not limited to metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, or other mineral waste; street rubbish, including but not limited to street sweepings, dirt, leaves, catch basin dirt, or content of litter receptacles; provided, refuse shall not include solid wastes resulting from industrial processes and manufacturing operations such as food processing wastes, boilerhouse cinders, lumber, scraps and shavings.

SOLID WASTE. All putrescible and nonputrescible solid and/or semisolid waste, except human excreta, but including garbage, rubbish, ashes, street cleanings, dead animals, offal and solid commercial, industrial, and institutional waste.

SOLID WASTE AND/OR RECYCLING COLLECTION COMPANY. Any person engaging in the work or business, whether regularly, intermittently or occasionally, of cleaning or removing garbage, waste, refuse, debris, recyclables, junk or abandoned or discarded substances or materials from the streets and alleys. The term shall not include a person regularly engaged in the collection for resale of industrial scrap or salvageable materials.

SOLID WASTE DISPOSAL FACILITY. A sanitary landfill, an incinerator, a composting facility, a garbage grinding facility or any other facility that is suitable for solid waste disposal and is constructed and approved in accordance with all applicable state and local statutes or ordinances.

(IC 36-9-30-2) ('80 Code, ' 8.08.010) (Ord. 40-1977, passed - -77; Am. Ord. 1982-28, passed 12-28-82; Am. Ord. 1992-12, passed - -92; Am. Ord. 1996-5, passed 2-26-96)

' 50.02 UNCOVERED GARBAGE PROHIBITED.

It is unlawful to place or permit to remain anywhere in the town any garbage or other material subject to decay, other than leaves or grass, excepting in a tightly covered metal container or plastic bag. ('80 Code, ' 8.08.020) (Ord. 3-1966, passed - -66) Penalty, see ' 10.99

' 50.03 WINDBLOWN REFUSE PROHIBITED.

It is unlawful to cause or permit to accumulate any dust, ashes or trash of such a material that it can be blown away by the wind anywhere in the town, except in a covered container. ('80 Code, ' 8.08.030) (Ord. 3-1966, passed - -66) Penalty, see ' 10.99

' 50.04 DEPOSIT ON STREETS PROHIBITED; EXCEPTION.

It is unlawful to deposit or permit to fall from any vehicle any garbage, refuse or ashes on any public street or alley in the town; provided, that this section shall not be construed to prohibit placing garbage, refuse or ashes in a container complying with the provisions of this chapter preparatory to having such material collected and disposed of in the manner provided in this chapter. ('80 Code, ' 8.08.040) (Ord. 3-1966, passed - -66) Penalty, see ' 10.99

' 50.05 DUMPING PROHIBITED.

It is unlawful to dump or place any garbage, refuse or ashes on any premises in the town. ('80 Code, ' 8.08.025) Penalty, see ' 10.99

' 50.06 PROPER DISPOSAL REQUIRED.

It is unlawful to dispose of any garbage, refuse, 1999 S-4

solids, waste, or ashes anywhere in the town except in an incinerator or disposal device, properly constructed and operated, or in a lawfully established solid waste disposal facility. Such materials not properly disposed of shall be placed in containers for collection as herein prescribed. ('80 Code, ' 8.08.060) (Am. Ord. 1982-28, passed 12-28-82) Penalty, see ' 10.99

' 50.061 REGISTRATION OF SOLID WASTE AND/OR RECYCLING COLLECTION COMPANIES.

(A) It shall be unlawful for any solid waste and/or recyclable collection company to conduct business within the town without first obtaining a certificate of registration issued pursuant to this section.

(B) The application for a certificate of registration shall be verified by the applicant personally and shall state:

- (1) The name and address of the applicant.
- (2) The disposition of all solid waste and recyclable materials collected.
- (3) Whether applicant conducts waste separation, and if so, how.
- (4) Whether applicant sells any waste materials so separated, listing what categories of waste applicant separates and to whom applicant sells.
- (5) List what landfill or landfills the applicant utilizes.
- (6) Any other information deemed necessary for the enforcement of this chapter.

(C) The annual fee to be paid to the town for a certificate of registration under this chapter shall be \$50. Certificates of registration shall expire on December 31st of each year.

(D) Any registration holder under this chapter who shall make any change in address or manner or place of disposition of collected material shall notify the town within five days after such change.

(E) Any registration holder under this chapter shall be required to submit periodic written reports to the Office of the Town Manager. The Office of the Town Manager shall be authorized to:

(1) Establish the form and content of the written reports and amend the same from time to time, and

(2) Establish the reporting periods and submittal dates of the written reports and amend the same from time to time.

(Ord. 1996-5, passed 2-26-96)

Cross-reference:

Fee schedule, see ' 11.052

' 50.07 CONTAINER SPECIFICATIONS.

(A) All garbage and refuse collected within the town shall be placed in containers suitable for the sanitary collection and disposal of garbage, refuse and recyclables materials, as follows:

(1) Garbage shall be placed in containers made of plastic or metal equipped with suitable handles and tight fitting covers. Each container shall be watertight and of a type approved by the town with a capacity of not less than 10 gallons and not more than 30 gallons. These containers shall be kept clean, neat, fly and vermin proof, and sanitary at all times. Eighty-five gallon containers which are dumped by a device on a garbage truck are also acceptable if approved for use by the town's Garbage Contractor. All grass clippings shall be placed in sealed plastic bags or such other bags as the Town Administrator may designate from time to time.

(2) Rubbish containers shall be of a kind suitable for securing and holding rubbish and shall be convenient for collection and of such weight as to be handled readily when lifted by one person. However, 85-gallon containers, when permitted, may also be employed for the containment of rubbish.

(B) The town's Garbage Contractor shall provide each dwelling unit, at the Contractor's sole expense, one uniform 18-gallon recycling container, in a color approved by the Town Administrator, manufactured in the United States and containing a substantial percentage of recycled plastic. Each container shall be uniform in size, shape and color and shall have appropriate drain holes, handles and lips all subject to the approval of the Town Administrator. In the event any container is lost, damaged, or destroyed, the Contractor shall replace the container at no cost, provided, however, if the loss, damage or destruction is the result of the negligence of the resident of a dwelling unit, such resident shall reimburse the Contractor for the cost of providing a replacement container. Title to all recycling containers shall remain with the Garbage Contractor. Each dwelling unit requesting additional containers shall be provided same at the expense of the Contractor; however, the Contractor may charge a refundable deposit of \$5 to the resident of the dwelling unit for each additional container that is requested and delivered by the Contractor.

(C) All refuse and recyclable containers shall be placed for collection at ground level on the owner's property, within the right-of-way of a street or alley, whenever possible, and shall be accessible to and not more than ten feet from the side of the street or alley from which collection is to be made. Containers may be placed at other than ground level and at a distance of more than ten feet if approved by the town and upon payment of any additional fee that may be due and charged. Containers and all refuse may be placed in front of any premises in the town within 24 hours prior to pick-up of the garbage, and shall be removed from the front of any premises in the town within 24 hours after pick-up of garbage.

('80 Code, ' 8.08.070) (Ord. 3-1966, passed - -66; Am. Ord. 1988-17, passed 8-8-88; Am. Ord. 1992-12, passed - -92; Am. Ord. 1998-15, passed 6-29-98; Am. Ord. 2004-15, passed 6-14-04) Penalty, see ' 10.99

' 50.08 SEPARATION OF FLAMMABLE REFUSE.

Refuse which is flammable shall not be mixed or mingled with refuse that is nonflammable.

('80 Code, ' 8.08.080) (Ord. 3-19066, passed - -66)

Penalty, see ' 10.99

Cross-reference:

Open burning, see ' 93.01

' 50.09 PRIMA FACIE EVIDENCE OF VIOLATION.

The fact that garbage, refuse or ashes remain on any occupant's premises in the town in violation of this chapter shall be prima facie evidence that the occupant of such premises is responsible for the violation occurring.

('80 Code, ' 8.08.100)

' 50.10 GARBAGE CONTRACT.

The town shall contract, from time to time, for the hauling of all garbage, refuse and recyclable materials from buildings containing not less than one, nor more than four, residential dwelling units within the municipal limits of the town.

(Ord. 1998-15, passed 6-29-98; Am. Ord. 2004-15, passed 6-14-04)

' 50.11 GARBAGE FEES AND CHARGES.

(A) *Garbage charge.* The owner or occupant of each applicable residential dwelling unit subject to the town's garbage hauling contract shall pay to the town the monthly base contract price charged by the garbage contractor for the removal and hauling of all residential garbage, refuse and recyclable materials.

(B) *Administrative charge.* In addition to the monthly base contract price, the sum of \$__ per month shall be added to the base contract price charged each dwelling unit or property served by the town through its garbage collection contract to help defray the costs of administration of the collection contract and other related expenses.

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(C) *Late charge.* A late charge for any delinquent garbage charge is hereby established and imposed. The fee shall be 10% of the first \$3.00; 3% in excess of \$3.00. A garbage charge shall be deemed delinquent if not received by the Clerk-Treasurer after the due date stated in any particular bill.

(D) All garbage fees and charges shall be added to the monthly utility bill charged each residential customer receiving garbage service from the town.

(Ord. 1998-15, passed 6-29-98; Am. Ord. 2004-15, passed 6-14-04)

Cross-reference:

Fee schedule, see ' 11.051

' 50.12 GARBAGE PICK-UP TIMES.

All residential garbage pick-up shall be performed between the hours of 6:00 a.m. and 5:00 p.m. on the days of the week approved by the Town Administrator for residential garbage pickup. All commercial garbage, refuse or recyclable pick-up shall occur on a weekday but shall not be earlier than 6:00 a.m. nor later than 9:00 p.m. Monday through Friday.

(Ord. 1998-15, passed 6-29-98; Am. Ord. 2004-15, passed 6-14-04) Penalty, see ' 10.99

' 50.13 RECYCLABLES.

To promote recycling and reduce the amount of the solid waste transported to landfills and other disposal sites, the following recycling program for the separation of recyclables from garbage and rubbish in the town is hereby established.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PLACEMENT or PLACED FOR COLLECTION.

Those items defined as recyclables, from the time they are placed at the curbside or any other approved location for collection by the town or its contracted hauler until the time of actual collection by the town or its contracted hauler.

RECYCLABLES. Material having an economic value in the secondary materials market. The materials

that have such economic value include, but are not limited to:

(1) Cans - aluminum, bi-metal and steel cans;

(2) Bottle glass - clear, green and amber colored glass;

(3) Paper - newspapers, magazines, computer printout paper, office paper, corrugated cardboard and other paper products;

(4) Plastics - plastics containers Grade 1 through 7;

(5) "PETE" (polyethylene teryshthalate) plastic bottles or containers; and

(6) Any other materials defined as recyclables in the contract for services by and between the town and its refuse and recycling hauler or that may be deemed recyclable materials.

RESIDENCE or **RESIDENTIAL**. Single, duplex, triplex, and quadplex residential dwelling units.

(B) *Separation of recyclables and placement for removal.*

Recyclables shall be properly prepared and separated from other refuse by each residential customer and shall be collected by the town or its contracted hauler. Recyclables shall either be placed at the curbside or other approved location, properly separated in approved recycling containers, for collection at dates and times designated by the town or taken to an approved recycling facility.

(C) *Collection by unauthorized person.*

(1) From the time recyclables are placed for collection at the curbside or other approved location, the recyclables shall be the exclusive property of the town or its authorized contract hauler or collector. It shall be a violation of this section for

any person or entity, not authorized by the town, to collect, pick up, destroy, take possession of or cause to be collected any recyclable items after they are placed for collection in accordance with this section. Any and each such collection in violation hereof from each location shall constitute a separate and distinct offense punishable as hereinafter provided.

(2) It shall be unlawful and a violation of this section for any person, entity or resident to collect, remove or dispose of any solid waste which contains recyclables.

(D) *Violation, penalties and remediation.*

(1) Any person, firm, corporation or other entity who violates or causes to be violated ' 50.13(C)(1) shall be fined not less than \$10 nor more than \$500 for each violation. Each collection in violation of this section shall constitute a separate and distinct violation.

(2) Upon the first occurrence of any violation of ' 50.13(C)(2), the contract hauler shall pick up all refuse or recyclable materials, except items containing putrescibles, for proper processing, disposal or recycling. The contract hauler shall also immediately complete a "notice of non-compliance", on a form approved by the Director of Administration, noting the reasons for noncompliance with this section, and leave the notice with the customer, record the date and address of the non-complying customer and retain a copy of the notice delivered.

(3) Upon the second or any ensuing occurrence by the same customer, the contract hauler shall leave any improperly prepared or non-recyclable material at the curbside, collect all properly prepared recyclable material and complete a "notice of non-compliance" and deliver it to the customer after recording the address and date of the violation. Upon the second and each ensuing occurrence, the contract hauler shall provide an accurate copy of the "notice of noncompliance", and any other pertinent information, to the office of the Clerk-Treasurer for remediation by the town.

(E) *Additional methods of disposal.* Any person may donate or sell any recyclable to any other person

or entity, whether operating for profit or not-for-profit, so long as the collection of same does not violate any of the provisions or requirements of this section concerning the placement or collection of recyclables by the town or its designated hauler.
(Ord. 1998-16, passed 6-29-98)

CHAPTER 51: SEWERS

Section

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Cross-reference:

Wastewater Treatment Plant Superintendent, see " 31.60 through 31.62

Water and sewer system, see ' 153.07

GENERAL PROVISIONS

' 51.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOD (denoting biochemical oxygen demand).

The quantity of oxygen utilized in the biochemical oxidation of organic matter under the standard laboratory procedure in five days at 20° C., expressed in parts per million by weight. ('80 Code, ' 13.28.020) (Ord. 4-1965, passed - -65)

BENEFICIAL USES. Uses of the waters of the state that may be protected against quality degradation include, but are not necessarily limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation, and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible as specified by federal or state law. ('80 Code, ' 13.28.030) (Ord. 1976-22, passed - -76)

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BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall. ('80 Code, ' 13.28.040) (Ord. 4-1965, passed - -65)

BUILDING SEWER. A sewer conveying wastewater from the premises of a user to a community sewer. ('80 Code, ' 13.28.050) (Ord. 1976-22, passed - -76)

COMBINED SEWER. A sewer receiving both surface runoff and sewage. ('80 Code, ' 13.28.060) (Ord. 4-1965, passed - -65)

COMMUNITY SEWER. A sewer owned and operated by the town, a city or other public agency tributary to a treatment facility operated by the town. ('80 Code, ' 13.28.070) (Ord. 1976-22, passed - -76)

COMPATIBLE POLLUTANT. Biochemical oxygen demand, suspended solids, pH and fecal coliform bacterial, plus additional pollutants identified in the town's National Pollutant Discharge Elimination System (NPDES) permit if the publicly owned treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. ('80 Code, ' 13.28.080) (Ord. 1976-22, passed - -76)

CONTAMINATION. An impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of wastewater, whether or not waters of the state are affected. ('80 Code, ' 13.28.090) (Ord. 1976-22, passed - -76)

FEDERAL ACT. The Federal Water Pollution Control Act, PL 92-500, and any amendments thereto, as well as any guidelines, limitations, and standards promulgated by the Environmental Protection Agency pursuant to the Act. ('80 Code, ' 13.28.100) (Ord. 1976-22, passed - -76)

GARBAGE. Solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce. ('80 Code, ' 13.28.110)

HOLDING TANK WASTE. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks. ('80 Code, ' 13.28.120)

INCOMPATIBLE POLLUTANT. Any pollutant which is not a compatible pollutant as defined in this section. The pretreatment standards for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to section 307(c) of the Federal Act shall be, for sources within the corresponding industrial or commercial category, that established by a promulgated effluent limitations guideline defining best practicable control technology currently available pursuant to sections 301(b) and 304(b) of the Federal Act, provided, that if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant; and provided further than even when the effluent limitations guideline for each industry category is promulgated, a separate provision will be proposed concerning the application of such guideline to pretreatment. ('80 Code, ' 13.28.130) (Ord. 1976-22, passed - -76)

INDUSTRIAL WASTES. The liquid waste or liquid-borne waste resulting from any commercial manufacturing or industrial operation or process. ('80 Code, ' 13.28.140) (Ord. 12-1973, passed - -73)

INSPECTOR. A person authorized by the town, through the Town Council to act on behalf of the town in the administration of this chapter. ('80 Code, ' 13.28.145)

INTERCEPTORS or **SEPARATORS** including **GREASE, OIL SAND INTERCEPTORS (CLARIFIERS).** A device designed and installed so as to separate and retain deleterious, hazardous or

undesirable matter from normal wastes and permit normal sewage or liquid wastes to discharge into the disposal terminal by gravity. ('80 Code, ' 13.28.147) (Ord. 1989-7, passed - -89)

MAJOR CONTRIBUTION INDUSTRY (MCI). A user who is required to obtain a permit, as defined in ' 51.046(A). ('80 Code, ' 13.28.150) (Ord. 1976-22, passed - -76)

MANAGER. The President of the Town Council or the Town Council's designated representative. ('80 Code, ' 13.28.160) (Ord. 1976-22, passed - -76)

MASS EMISSION RATE. The weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents. ('80 Code, ' 13.28.170)

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater. ('80 Code, ' 13.28.180) (Ord. 4-1965, passed - -65)

NPDES PERMIT. Any permit or other document issued under the authority of and pursuant to the national pollutant discharge system, being the Federal Water Pollution Control act as now or hereafter amended. ('80 Code, ' 13.28.185)

NUISANCE. Anything which is injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. ('80 Code, ' 13.28.190) (Ord. 1976-22, passed - -76)

PERSONS. Any individual, partnership, firm, association, corporation or public agency including the state and the United States of America. ('80 Code, ' 13.28.200) (Ord. 1976-22, passed - -76)

POLLUTION. An alteration of the quality of the waters of the state by waste to a degree which unreasonably affects such waters for beneficial use or facilities which serve such beneficial uses. Pollution may include contamination. ('80 Code, ' 13.28.210) (Ord. 1976-22, passed - -76)

PREMISES. A parcel of real estate including any improvements thereof which is determined by the agency to be a singular user for purposes of receiving, using, and paying for service. ('80 Code, ' 13.28.220) (Ord. 1976-22, passed - -76)

PRETREATMENT. Treatment of wastewater by the user before introduction into the Asewage works@ and shall include all applicable rules and regulations contained in the code of Federal Regulations as published in the *Federal Register*, under section 307 of Public Law 92-500. ('80 Code, ' 13.28.225)

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension. ('80 Code, ' 13.28.230) (Ord. 4-1965, passed - -65)

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority. ('80 Code, ' 13.28.240) (Ord. 4-1965, passed - -65)

SANITARY SEWAGE. The waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, basement drains, garage floor drains, bars, soda fountains, cuspidors, refrigerator drips, drinking fountains, stable floor drains, and all other water-carried wastes except industrial wastes. ('80 Code, ' 13.28.250) (Ord. 12-1973, passed - -73)

SANITARY SEWER. A sewer which carries sewage and to which storm waters, surface waters and groundwaters are not admitted. ('80 Code, ' 13.28.260) (Ord. 4-1965, passed - -65)

SEWAGE. A combination of the water-carried wastes from residences, business buildings, 1995 S-1

institutions and industrial establishments, together with such groundwaters, surface waters and storm waters as may be present. ('80 Code, ' 13.28.270) (Ord. 4-1965, passed - -65)

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage. ('80 Code, ' 13.28.280) (Ord. 4-1965, passed - -65)

SEWAGE WORKS. Sewage treatment plants, intercepting sewers, main sewers, sub-main sewers, local sewers, lateral sewers, out-fall sewers, force mains, pumping stations, ejector stations and any other structures necessary or useful for the collection, treatment, purification and sanitary disposal of the liquid waste, solid waste, and sewage of the town. ('80 Code, ' 13.28.290) (Ord. 1982-25, passed - -82)

SEWER. A pipe or conduit for carrying sewage. ('80 Code, ' 13.28.300) (Ord. 4-1965, passed - -65)

STORM SEWER or **STORM DRAIN.** A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes. ('80 Code, ' 13.28.310) (Ord. 4-1965, passed - -65)

SUSPENDED SOLIDS. Solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering. ('80 Code, ' 13.28.320) (Ord. 4-1965, passed - -65)

TOWN. The Town of Lowell. ('80 Code, ' 13.28.330) (Ord. 1976-22, passed - -76)

UNPOLLUTED WATER. Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the agency having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters. ('80 Code, ' 13.28.340) (Ord. 1976-22, passed - -76)

USER. Any person that discharges, causes or permits the discharge of wastewater into a community sewer. ('80 Code, ' 13.28.350) (Ord. 1976-22, passed - -76)

USER CLASSIFICATION. A classification of user based on the 1972 edition of the *Standard Industrial Classification (SIC) Manual* prepared by the Executive Office of Management and Budget. ('80 Code, ' 13.28.360) (Ord. 1976-22, passed - -76)

WASTE. Includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal. ('80 Code, ' 13.28.370) (Ord. 1976-22, passed - -76)

WASTEWATER. Waste and water, whether treated or untreated, discharged into or permitted to enter a community sewer. ('80 Code, ' 13.28.380) (Ord. 1976-22, passed - -76)

WASTEWATER CONSTITUENTS and CHARACTERISTICS. The individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater. ('80 Code, ' 13.28.390) (Ord. 1976-22, passed - -76)

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently. ('80 Code, ' 13.28.400) (Ord. 4-1965, passed - -65)

WATER OF THE STATE. Any water, surface or underground, including saline waters within the boundaries of the state. ('80 Code, ' 13.28.410) (Ord. 1976-22, passed - -76)

' 51.002 PRIVIES, CESSPOOLS AND THE LIKE PROHIBITED.

It is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage. ('80 Code, ' 13.32.010) (Ord. 4-1965, passed - -65) Penalty, see ' 51.999

Statutory reference:

For authority of town to require connection to its sewer system, see IC 36-9-23-30

' 51.003 INSTALLATION OF TOILET FACILITIES REQUIRED.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the and abutting any street, alley or right-of-way in which there is now located or may in the future be located a public sewer or combined sewer of the town, is required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after the date of official notice to do so, provided that the public sewer is within 100 feet of the property line. ('80 Code, ' 13.32.020) (Ord. 4-1965, passed - -65)

' 51.004 PRIVATE SEWAGE DISPOSAL SYSTEMS.

(A) Where a public sanitary or combined sewer is not available under the provisions of ' 51.003, the building sewer shall be connected to a private sewage disposal system complying with all recommendations of the State Board of Health.

(B) At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in ' 51.003, a direct connection shall be made to the public sewer in compliance with this chapter and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned.

(C) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the town.

(D) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the local health officer. ('80 Code, ' 13.32.030) (Ord. 4-1965, passed - -65) Penalty, see ' 51.999

' 51.005 TAMPERING WITH SEWAGE WORKS FACILITIES PROHIBITED.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works.

('80 Code, ' 13.32.050) (Ord. 1979, passed - -79) Penalty, see ' 51.999

BUILDING SEWERS AND CONNECTIONS

' 51.015 PERMIT REQUIRED FOR USE OF PUBLIC SEWER; APPLICATION.

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

(B) The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Inspector. ('80 Code, ' 13.32.040 A.,B.) (Ord. 4-1965, passed - -65) Penalty, see ' 51.999

' 51.016 OWNER'S LIABILITY FOR COSTS; INDEMNIFICATION OF TOWN.

All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner or the person installing the building sewer for the owner shall indemnify the town from the loss or damage that may directly or indirectly be occasioned by the installation, connection and/or maintenance.

('80 Code, ' 13.32.040 C.) (Ord. 4-1965, passed - -65)

' 51.017 SEPARATE BUILDING SEWER REQUIRED FOR EVERY BUILDING.

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

('80 Code, ' 13.32.040 D.) (Ord. 4-1965, passed - -65) Penalty, see ' 51.999

' 51.018 USE OF OLD BUILDING SEWERS WITH NEW BUILDINGS.

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

('80 Code, ' 13.32.040 E.) (Ord. 4-1965, passed - -65)

' 51.019 BUILDING SEWER CONSTRUCTION AND CONNECTION STANDARDS.

Sanitary sewer design and construction shall be in accordance with the current edition of the Lowell Town Standards adopted by the Town Council.

('80 Code, ' 13.32.040 F.-L.) (Ord. 4-1965, passed - -65; Am. Ord. 1983-6, passed - -83; Am. Ord. 2015-20, passed 9-14-15) Penalty, see ' 51.999

' 51.020 INSPECTION OF CONNECTION TO PUBLIC SEWER.

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

('80 Code, ' 13.32.050 M.) (Ord. 4-1965, passed - -65)

STREETS.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in accordance with ' 97.21.
('80 Code, ' 13.32.040 N.) (Ord. 4-1965, passed - -65)

DISCHARGE, TREATMENT, AND MONITORING REGULATIONS

' 51.035 PURPOSE AND POLICY.

The Wastewater Discharge Ordinance sets uniform requirements for discharges into the wastewater collection and treatment system and enables the town to comply with the administrative provisions of the Clean Water Grant Regulations, the water quality requirements set by the Regional Water Quality Control Board and the applicable effluent limitations, national standards of performance, toxic and pretreatment effluent standards, and any other discharge criteria which are required or authorized by state or federal law, and to derive the maximum public benefit by regulating the quality and quantity of wastewater discharged into those systems. This subchapter provides for the setting of user charges and fees for the equitable distribution of costs to all users, and the issuance of permits to certain users. Revenue derived from the application of this chapter shall be used to defray the town's cost of operating and maintaining an adequate wastewater collector and treatment system and to provide sufficient funds for capital outlay, bond service cost, capital improvement, and depreciation.
('80 Code, ' 13.36.010) (Ord. 1976-22, passed - -76)

' 51.036 AUTHORITY OF TOWN TO PROHIBIT CERTAIN DISCHARGES.

The town is authorized, by and through its Town Council, to prohibit dumping of wastes into the town sewage system which, in its discretion, are deemed harmful to the operation of sewage works of the town, or to require methods effecting pretreatment of said wastes to reduce the characteristics of the wastes satisfactory to the town, or to pay the appropriate surcharge, under other provisions of this chapter, if such wastes are accepted by the utility.

('80 Code, ' 13.36.020 (part))

Statutory reference:

For authority of town to operate and maintain the sewage works, see IC 36-9-23-2

' 51.037 GENERAL DISCHARGE PROHIBITIONS.

Except as hereinafter provided, no persons shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

(A) Storm , surface and ground water; prohibited connections:

(1) No ground, surface or other water from any inflow source shall be discharged into any sanitary sewer;

(2) No downspout shall be connected to any combined sewer or sanitary sewer any such connections that currently exist shall be removed to prevent such flows from entering into any sanitary sewer;

(3) The construction of new combined sewers is prohibited;

(4) If a separate storm sewer becomes available within a combined sewer area, all clear water sources shall be disconnected form the combined sewer;

(5) No storm water, surface water, ground water, runoff water, footing tiles, subsurface drainage, cooling water or unpolluted industrial processed water shall be discharged into any sanitary sewer;

(6) Storm water and all other unpolluted drainage shall be discharged to such sewers specifically designated as storm sewers or to a natural outlet approved by the town;

(7) Industrial cooling water or unpolluted process waters may be discharged, upon prior approval by the town and the issuance of a permit, to a storm sewer or natural outlet. If such permit is granted for discharge the use shall pay the applicable use and connection charges and fees and shall meet such other conditions as may be required by the town in said permit; and

(8) Any new building the inflow/clear water connection to a combined sewer shall be made separate and distinct from the sanitary waste connection to facilitate disconnection of the former if separate storm sewer subsequently becomes available.

(B) Any liquid or vapor having a temperature higher than 150° F. (65° C.).

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

(D) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor greater than 3/4 horsepower (0.75 hp metric) shall be subject to the review and approval of the town. Garbage grinders shall not be used for grinding plastic, paper products, inert material or garden refuse.

(E) Wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the town for such materials.

(F) (1) Any waters or wastes containing in excess of:

- 0.2 mg/l cadmium
- 2. mg/l copper
- 2 mg/l cyanide
- 2 mg/l lead
- 2 mg/l nickel
- 2 mg/l total chromium
- 4 mg/l zinc
- 1.0 mg/l mercury
- 2 mg/l silver
- 1 mg/l phenolic compounds
- 0.02 mg/l total identifiable chlorinated hydrocarbons

(2) All other parameters to be limited in amounts set forth in the proposed pretreatment guidelines issued by USEPA, dated October 1975.

(G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.

(H) Any waters or wastes having a pH in excess of 9.0 or lower than 6.0.

(I) Materials which exert or cause:

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

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

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) A fire or explosion and/or damage to life or safety of personnel.

(5) A nuisance or obstruction of flow in a sewer system or injury of the system or damage to the wastewater collection, treatment or disposal facilities.

(6) Air pollution and/or a strong unpleasant odor by release of toxic or malodorous gases or malodorous gas producing substances.

(J) Waters or wastes containing substances which cannot be treated or reduced by the sewage treatment processes employed, or may be treated only to such a degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(K) Any waste, which cause, threaten to cause, or are capable of causing either alone or by interaction with other substances, the wastewater treatment plant's effluent or any other product of the treatment process, residues, sludges, or scum, to be unsuitable for reclamation, disposal, or reuse or to interfere with the reclamation process, or to fail to meet any of the limitations set by any federal or state agency or the terms of the town's NPDES permit.

(L) Quantities or rates of flow which overload the town's collection or treatment facilities or cause excessive town collection or treatment costs, or may use a disproportionate share of the town facility. ('80 Code, ' 13.36.020 (part)) (Am. Ord. 2002-02, passed 3-25-02; Am. Ord. 2018-33, passed 12-27-18) Penalty, see ' 51.999

' 51.038 INTERCEPTORS AND SEPARATORS.

(A) *Interceptors required.* Interceptors for oil, grease, sand and other substances harmful or hazardous to the sanitary sewer system shall be installed by the user at the user's sole expense when in the opinion of the Inspector or designated representative of the town shall deem them necessary for the proper handling of liquid waste containing grease in excessive amounts, or any flammable wastes, sand and/or other harmful ingredients.

(B) *Interceptors not required.* A grease interceptor shall not be required for individual dwelling units or any private living quarters.

(C) *Separators required.* At repair garages, gasoline stations with grease racks, grease pits or work racks and at factories where oily and flammable liquid waste are produced, separators shall be installed into which all oil bearing, grease bearing or flammable waste shall be discharged before emptying into the sanitary sewer system or other point of disposal.

(D) *Size, type and location to be approved.* The size, type and location of each interceptor and of each separator shall be approved and waste other than those

requiring treatment and/or separation shall not be discharged in any interceptor or separator. All interceptors shall be of the type and capacity approved by the Inspector or designated town official and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gas-tight and watertight. When installed, all grease, oil and sand interceptors shall be maintained at the user's expense in a continuous, efficient operation at all times.

(E) *Maintenance.* All interceptors and/or separators shall be routinely inspected and maintained at intervals of not more than six months. A written maintenance report certifying that appropriate maintenance has been performed and that the interceptor and/or separator is in good working order and that the effluent does not exceed any of the maximum limits as established by this chapter and/or by any other state or federal regulatory agency or department at intervals not more frequently than six months.

(F) *Inspection.* The Inspector and/or designation town official shall be permitted access to the user's property at any time to inspect the operation of an interceptor or separator. ('80 Code, ' 13.36.020 M.) (Am. Ord. 89-7, passed - -89) Penalty, see ' 51.999

' 51.039 LIMITATIONS ON POINT OF DISCHARGE; PERMIT REQUIRED.

No person shall discharge any substances directly into a manhole or other opening in a community sewer other than through an approved building sewer, unless upon written application by the user and payment of the applicable user charges and fee, the town issues a permit for such direct discharges. ('80 Code, ' 13.36.021) (Ord. 1976-22, passed - -76) Penalty, see ' 51.999

' 51.040 DISCHARGE OF HOLDING TANK WASTE; PERMIT REQUIRED.

A user proposing to discharge holding tank wastes into a community sewer must secure a permit. Unless allowed by the town under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. This permit will state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and the wastewater constituents and characteristics. If a permit is granted for discharge of such waste into a community sewer, the user shall pay the applicable user charges and fees and shall meet such other conditions as required by the town.

('80 Code, ' 13.36.022) (Ord. 1976-22, passed - -76)

' 51.041 ADDITIONAL EFFLUENT LIMITATION; FEDERAL PRETREATMENT STANDARDS.

(A) (1) Effluent limitation promulgated by the Federal Act shall apply in any instance where they are more stringent than those in this chapter. Under section 307(b) of the Act, Federal Pretreatment Standards are designed to achieve two purposes:

(a) To protect the operation of publicly-owned treatment works; and

(b) To prevent the discharge of pollutants which pass through such works inadequately treated.

(2) Users in Industrial Categories subject to effluent guidelines issued under Section 304(b) of the Act, which are discharging incompatible pollutants to publicly-owned treatment works, are required to adopt best practicable control technology currently available, as defined by the Administrator pursuant to section 304(b) of the Act. Where the town treatment works was designed to and does achieve substantial removal of pollutants other than the four pollutants listed in the definition for compatible pollutants in ' 51.001, suspended solids, pH, and fecal coliform bacteria, it is not appropriate to require the industrial user to achieve best practicable control technology currently available, since this would lead to an uneconomical duplication of treatment facilities. While the Asubstantial removal@ is not subject to precise definition, it generally contemplates removals in the order of 80% or greater. Minor incidental removals in the order of 10% to 30% are not considered Asubstantial.@ For some industrial categories it may be necessary to define pretreatment guidelines for problems that may arise as a result of the discharge into publicly owned treatment works. However, any adjustments required for particular industrial categories should be considered in connection with the town's requirements rather than in the national pretreatment standard. Limitations on wastewater strength in ' 51.042 may be supplemented with more stringent limitations pursuant to ' 51.046(D).

(B) If the town determines that the limitations in " 51.036 through 51.038 may not be sufficient to enable the town's treatment works to comply with water quality standards or effluent limitations specified in the Town's National Pollutant Discharge Elimination System (NPDES) permit.
('80 Code, ' 13.36.026)

' 51.042 METERED WATER SUPPLY.

User charges and fees shall be applied against the total amount of water used from all sources unless, in the opinion of the town, significant portions of water received are not discharged to a community sewer. The total amount of water used from public and private sources will be determined by means of public meters or private meters, installed and maintained at the expense of the user and

approved by the town.
('80 Code, ' 13.36.030) (Ord. 1976-22, passed - -76)
Penalty, see ' 51.999

' 51.043 METERED WASTEWATER VOLUME; METERED DIVERSIONS.

For users where, in the opinion of the town, a significant portion of the water received from any metered source do not flow into the community sewer because of the principal activity of the user of removal by other means, the user charges and fees will be applied against the volume of water discharged from such premises into the community sewer. Written notification and proof of the diversion of water must be provided by the user if the user is to avoid the application of the user charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the town and at the user's expense. Such meters may measure either the amount of sewage discharged or the amount of water diverted. Such meters shall be tested for accuracy at the expense of the user when deemed necessary by the Manager.
('80 Code, ' 13.36.031) (Ord. 1976-22, passed - -76)

' 51.044 ESTIMATED WASTEWATER VOLUME.

(A) *Users without source meters.* For users where in the opinion of the town, it is unnecessary or impractical to install meters, the quantity of wastewater may be based upon an estimate prepared by the town. This estimate shall be based upon a rational determination of the wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services or such other determinants of water use necessary to estimate the wastewater volume discharged.

(B) *Users with source meters.* For users who, in the opinion of the town divert a significant portion of their flow from a community sewer, the user charges may be based upon an estimate of the volume prepared by the user, provided the user obtains a

Wastewater Discharge Permit and pays the applicable user charges and fees. The estimate must include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water user necessary to estimate the wastewater volume discharged.

('80 Code, ' 13.36.032) (Ord. 1976-22, passed - -76)

' 51.045 DISCHARGE REPORTS.

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

('80 Code, ' 13.36.040) (Ord. 1976-22, passed - -76)

' 51.046 WASTEWATER DISCHARGE PERMITS.

(A) *Mandatory permits.* All major contributing industries proposing to connect or to discharge into a community sewer must obtain a Wastewater Discharge Permit before connecting to or discharging into a community sewer. All existing major contributing industries connected to or discharging into a community sewer must obtain a Wastewater Discharge Permit within 90 days after the effective date of the chapter. For purposes of this chapter a **MAJOR CONTRIBUTING INDUSTRY** is defined as any user whose user classification is identified in the *Standard Industrial Classifications (SIC) Manual* in

any divisions A, B, D, E, and I and who has a discharge flow of 50,000 gallons or more per average work day, or has a flow greater than 5% of the flow in the town's wastewater treatment system, or has in his wastes toxic pollutants in toxic amounts as defined in standards issued under section 307(a) of the Federal Act, or is found by the Manager to have significant impact, either singly or in combination with other contributing industries, on the treatment or collection system.

(B) *Permit application.*

(1) Users seeking a Wastewater Discharge Permit shall complete and file with the Manager, an application in the form prescribed by the Manager, and accompanied by the applicable fees. The applicant may be required to submit, in units and terms appropriate for evaluation, the following:

- (a) Name, address, and SIC number of applicant;
- (b) Volume of wastewater to be discharge;
- (c) Wastewater constituents and characteristics including but not limited to those mentioned in Section ' 51.041 as determined by a laboratory approved by the own;
- (d) Time and duration of discharge;
- (e) Average and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variation if any;
- (f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation;
- (g) Description of activities, facilities and plant process on the premises including all materials, processes and types of materials which are or could be discharged;
- (h) Each product produced by type, amount, and rate of production;
- (i) Number and type of employees,

and hours of work;

(j) Any other information as may be deemed by the Manager to be necessary to evaluate the permit application.

(2) The Manager will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Manager may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

(C) *Permit conditions.* Wastewater Discharge Permits shall be expressly subject to all provisions of this chapter and all other regulations, user charges and fees established by the town. The conditions of Wastewater Discharge Permits shall be uniformly enforced by the Manager in accordance with the chapter, and applicable state and federal regulations. Permits may contain the following:

(1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(2) The average and maximum wastewater constituents and characteristics;

(3) Limits on rate and time of discharge or requirements for flow regulations and equalization;

(4) Requirements for installation of inspection and sampling facilities;

(5) Pretreatment requirements;

(6) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number types and standards for tests and reporting schedule;

(7) Requirements for submission of technical reports or discharge reports;

(8) Requirements for maintaining plant records relating to wastewater discharge as specified by the town, and affording town access thereto;

(9) Mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants (as defined by ' 51.001) are proposed or present in the user's wastewater discharge;

(10) Other conditions as deemed appropriate by the town to insure compliance with this chapter.

(D) *Duration of permits.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. If the user is not notified by the town 30 days prior to the expiration of the permit, the permit shall be extended one additional year. The terms and conditions of the permit may be subject to modifications and changed by the town during the life of the permit as limitations or requirements as identified in ' 51.041 are modified and changed. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(E) *Transfer of a permit.* Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(F) *Revocation of permit.* Any user who violated the following conditions of the permit or of this chapter, or applicable state and federal regulations, is subject to having his permit revoked;

(1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;

(2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(4) Violation of conditions of the permit.
(‘80 Code, ‘ 13.36.041) (Ord. 1976-22, passed - -76)

**‘ 51.047 MONITORING FACILITIES;
MEASUREMENTS, TESTS, AND ANALYSES.**

(A) The town may require the user to construct at his own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems and may also require sampling or metering equipment to be provided, installed, and operated at the user's expense. The monitoring facility should normally be situated on the user's premises, but the town may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(B) If the monitoring facility is inside the user's fence, there shall be accommodations to allow access for town personnel, such as a gate secured with a town lock. There shall be ample room in or near such sampling manhole to allow accurate sampling and compositing of samples for analysis. The manhole, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(C) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the town's requirements and all applicable local agency construction standards and specifications. Construction shall be completed within 90 days following written notification by the town, unless a time extension is otherwise granted by the town.
(‘80 Code, ‘ 13.36.042) (Ord. 1976-22, passed - -76)

‘ 51.048 INSPECTION AND SAMPLING.

The town may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where

wastewater is created or discharged shall allow the town or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The town shall have the right to set up on the user's property such devices as are necessary to conduct sampling or in the performance of any of their duties. The town shall have the right to set upon the user's property such devices as are necessary to conduct sampling or metering operation. Where a user has security measures in force which would require proper identification and clearance before entry into their security guards so that upon presentation of suitable identification, personnel from the town will be permitted to enter without delay for the purposes of performing their specific responsibilities.
(‘80 Code, ‘ 13.36.043)

‘ 51.049 PRETREATMENT FACILITIES.

Users shall make wastewater acceptable under the limitations established herein before discharging to any community sewer. Any facilities required to pretreat wastewater to a level acceptable to the town shall be provided and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the town for review, and shall be acceptable to the town before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the town.
(‘80 Code, ‘ 13.36.044) (Ord. 1976-22, passed - -76)

**‘ 51.050 PROTECTION FOR ACCIDENTAL
DISCHARGE.**

Each user shall provide protection for accidental discharge of prohibited materials or other wastes regulated by this chapter. Such facilities shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating

procedures to provide this protection shall be submitted to the town for review, and shall be acceptable to the town before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this section.

('80 Code, ' 13.36.045) (Ord. 1976-22, passed - -76)

' 51.051 CONFIDENTIAL INFORMATION.

(A) All information and data on a user obtained from reports, questionnaires, permit application, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town that the release of such information would divulge information, processes or methods which would be detrimental to the user's competitive position.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies; provided, however, that such portions of report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(C) Information accepted by the town as confidential, shall not be transmitted to any governmental agency or to the general public by the town until and unless prior and adequate notification is given to the user.

('80 Code, ' 13.36.046) (Ord. 1976-22, passed - -76)

' 51.052 SPECIAL AGREEMENTS.

Special agreements and arrangements between

the town and any persons or agencies may be established when in the opinion of the town unusual or extraordinary circumstances compel special terms and conditions.

('80 Code, ' 13.36.047) (Ord. 1976-22, passed - -76)

' 51.053 CLASSIFICATION OF USERS.

All users shall be classified by assigning each one to a User Classification@ category according to the principal activity conducted on the user's premises and based on the typical wastewater constituents and characteristics for that type of user as determined by the town. The purpose of such classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and establish a system of user charges and fees which will insure an equitable recovery of the town's cost. Wastewater constituents and characteristics may include but not be limited to the following: BOD, COD, Oil Grease, and Chlorine Demand.

('80 Code, ' 13.36.050) (Ord. 1976-22, passed - -76)

' 51.054 TYPES OF CHARGES AND FEES.

A user classification charge may be adopted for each user category based upon the charges for the average wastewater constituents and characteristics for each user classification. The charges for each wastewater constituent and characteristic shall be established by the town and set forth in the town's schedule of charges and fees included herein or adopted by the town. The town may adopt a schedule of charges and fees which may include:

(A) User classification charges;

(B) Fees for monitoring;

(C) Fees for permit applications;

(D) Appeal fees; and

(E) Charges and fees based on wastewater constituents and characteristics to include industrial

cost recovery provisions of the Federal Act.
('80 Code, ' 13.36.051) (Ord. 1976-22, passed - -76)

' 51.055 DETERMINATION OF USER CHARGES.

(A) *Non-wastewater discharge permit use.* Each user, not required to obtain a Wastewater Discharge Permit, shall pay the applicable user charge as established by the town and set forth in the town's schedule of user charges and fees. This charge shall be determined by multiplying the user classification charge by the determined wastewater volume. The town may elect to set a fixed unit charge as set forth in the town's schedule of user charges and fees for certain user classifications based on wastewater constituents and characteristics. For the purpose of determining wastewater user charges the minimum Standard Classification charge shall be based upon a typical average strength of domestic wastewater such as:

BOD	250 mg/l
COD	375 mg/l
Suspended solids	250 mg/l
Oil and grease	40 mg/l

(B) *Wastewater Discharge Permit Users.* Users who are issued a Wastewater Discharge Permit under the provisions of this chapter shall pay a user charge determined by multiplying the charge for each wastewater constituent and characteristic by the volume of water discharge.
('80 Code, ' 13.36.052) (Ord. 1976-22, passed - -76)
Penalty, see ' 51.999

' 51.056 ACCIDENTAL DISCHARGE PROCEDURES.

(A) *Notification of discharge.*

(1) Users shall notify the town immediately upon accidentally discharging wastes in violation of this chapter to enable countermeasures to be taken by the town to minimize damage to the community sewer, treatment facility, treatment processes and the receiving waters.

(2) This notification shall be followed, within 15 days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence.

(3) Such notification will not relieve users of liability for any expenses, loss or damage to the sewer system, treatment plant, or treatment process, or for any fines imposed on the town on account thereof under.

(B) *Notices to employees.* In order that employees of users be informed of town requirements, users shall make available to their employees copies of this chapter and together with such other wastewater information and notices which may be furnished by the town from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of this chapter.

(C) *Preventive measures.* Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system should be eliminated. Where such action is impractical or unreasonable the user shall appropriately label such entry points to warn against discharge of such wastes in violation of this chapter.
('80 Code, ' 13.36.060) (Ord. 1976-22, passed - -76)

' 51.057 CEASE AND DESIST ORDERS.

When the town finds that a discharge of wastewater has taken place, in violation of prohibitor is or limitations of this chapter, or the provisions of a Wastewater Discharge Permit, the Manager may issue an order to cease and desist; and direct that those persons not complying with such prohibitions, limits, requirements, or provisions to.

(A) Comply forthwith;

(B) Comply in accordance with a time schedule set forth by the town; or

(C) Take appropriate remedial or preventive action in the event of a threatened violation.
(80 Code, ' 13.36.061) (Ord. 1976-22, passed - -76)

' 51.058 SUBMISSION OF TIME SCHEDULE.

When the agency finds that a discharge of wastewater has been taking place, in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirement, effluent limitations or pretreatment standards, or the provisions of a Wastewater Discharge Permit, the agency may require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specifications which the user shall make in order to prevent or correct a violation of requirements.

(80 Code, ' 13.36.062) (Ord. 1976-22, passed - -76)

' 51.059 APPEAL PROCEDURE.

Any user, permit applicant, or permit holder affected by any decision, action or determination, including Cease and Desist Orders, made by the Manager, interpreting or implementing the provisions of this chapter or in any permit issued herein, may file with the Manager a written request for reconsideration within ten days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

(80 Code, ' 13.36.063) (Ord. 1976-22, passed - -76)

' 51.060 UNLAWFUL DISCHARGE DECLARED PUBLIC NUISANCE.

Discharges of wastewater in any manner in violation of this chapter or of any order issued by the Manager as authorized by this chapter, is hereby declared a public nuisance and shall be corrected or abated as directed by the Manager.

(80 Code, ' 13.36.070) (Ord. 1976-22, passed - -76)
Penalty, see ' 51.999

' 51.061 INJUNCTION.

Whenever a discharge of wastewater is in violation of the provisions of this chapter or otherwise causes or threatens to cause a condition of contamination, pollution or nuisance, the town may petition the Superior Court for the issuance of a preliminary or permanent injunction or both as may be appropriate in restraining the continuance of such discharge.

(80 Code, ' 13.36.071) (Ord. 1976-22, passed - -76)

' 51.062 DAMAGE TO TOWN FACILITIES; CHARGE AGAINST USER.

When a discharge of water; causes an obstruction, damage, or any other impairment to town facilities, the town may assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's charges and fees.

(80 Code, ' 13.36.072) (Ord. 1976-22, passed - -76)

' 51.063 TERMINATION OF SERVICE.

The town may revoke any Wastewater Discharge Permit, or terminate or cause to be terminated wastewater service to any premises if a violation of any provision of this chapter is found to exist or if a discharge of wastewater causes or threatens to cause a condition of contamination, pollution, or nuisance as defined in this ordinance. This provision is in addition to other statutes, rules, or regulations, authorizing termination of service for delinquency in payment.

(80 Code, ' 13.36.076) (Ord. 1976-22, passed - -76)

RATES AND CHARGES

' 51.075 DESIGNATION OF RATES AND CHARGES.

For the use of and the service rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate, building or premises that is connected with the town's sanitary sewerage system or that otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewerage system of the town, which rates and charges shall be payable as provided in IC 36-9-23 and shall be in an amount determinable as follows:

(A) *Rate review.* At least every two years hereafter, the Town Council shall engage appropriate consultants to perform a rate review to evaluate the current sewer rates and charges.

(B) *Meters.* Except as otherwise provided in this section, sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges as the same is measured by the water meter in use on the premises.

(C) (1) *Metered rate.* The water usage schedule on which the amount of sewage rates and charges shall be based is designated below for each 1,000 gallons of water usage as measured by each water meter:

QUANTITY OF WATER USED PER MONTH	CHARGE PER 1,000 GAL.
first 5,000 gal.	\$8.16
next 10,000 gal.	\$7.03
next 20,000 gal.	\$5.84
next 40,000 gal.	\$4.82
all over 75,000 gal.	\$3.55

(2) *Metered minimum charge.* A minimum charge for each user, where the user is a metered water customer, shall be based upon meter sizes as indicated below.

METER SIZE (in inches)	GALLONS ALLOWED	MINIMUM RATE
5/8	2,500	\$20.40
1	7,500	\$58.38
1 1/4	11,500	\$86.50
1 1/2	18,500	\$131.54
2	31,000	\$204.54
3	70,000	\$396.60
4	169,500	\$756.18
6	360,500	\$1,434.23

(3) *Non-metered charges.* The minimum charge for sewage service where the user is not a metered water customer shall be based on the size of a water connection estimated by the town's waterworks, but in no event shall the charge for sewage service be less than \$67.10 per month where the user is not a metered water customer.

(4) *Replacement-repair permit fees.*

(a) A permit shall be applied for through the Community Development Department for the replacement or repair of any existing connection to a sanitary sewer main and no permit issued for such work shall become effective until the installation or repair is inspected and completed to the satisfaction of the superintendent.

(b) The superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection before any underground portion of the replacement connection or repair is covered.

(c) Each applicant shall pay the following fees to the wastewater utility for each replacement or repair of an existing sewer connection.

DESCRIPTION	FEE
Permit fee- includes one inspection	\$50
Each additional inspection	\$35

('80 Code, ' 13.40.010) (Ord. 1987-21, passed 11-10-8; Am. Ord. 2000-6, passed 3-13-00)

(D) Unless the Town of Cedar Lake timely participates in the costs of the improvements to the Lowell WWTP as contemplated in the Lowell Compliance Plan Phase I Project, to the full extent required under the 1973 agreement between the Town of Lowell and the Town of Cedar Lake, any increase in treatment capacity at the Lowell WWTP resulting from said project shall be and remain the sole and separate capacity of the Town of Lowell and shall not be available to the Town of Cedar Lake for use by it or its sewer utility or customers.

(Ord. 2000-6, passed 3-13-00; Am. Ord. 2005-08, passed 4-11-05; Am. Ord. 2007-09, passed 4-23-07; Am. Ord. 2008-26, passed 12-8-08)

Cross-reference:

Fee schedule, see ' 11.053

Statutory reference:

For authority of town to establish rates and charges for use of sewage works, see IC 36-9-23-25 et seq.

' 51.076 ALLOWANCE FOR WATER NOT ENTERING SEWAGE SYSTEM AND OTHER SPECIAL SITUATIONS.

The quantity of water obtained from sources other than the municipal waterworks and discharged into the public sanitary sewer system may be determined by the town in such manner as the town elects, and the sewage treatment service may be billed at the appropriate rates as set out in ' 51.075.

(A) In the event a lot, parcel of real estate or building, none of which are being used for residential or domestic purposes, is discharging sanitary sewage, industrial waste, water or other liquids into the town's sanitary sewage system, either directly or indirectly, and is not a user of the water supplied by the town's waterworks, and the water used thereon or therein is not measured by a water meter, then the owner or other user, at his own expense, shall install and maintain meters or any adequate and approved method of measurement acceptable to the town for the determination of the sewage discharge, and the rates and charges provided in this chapter shall be applicable thereto.

(B) In the event a lot, parcel of real estate or building, none of which are being used for residential or domestic purposes, is discharging sewage, industrial waste, water or other liquids into the town's sanitary sewage system, either directly or indirectly, and is a user of water supplied by the town's waterworks, and in addition uses water from another source, one or both sources not being measured by a water meter, then the owner or other user, at his own expense, shall install and maintain water meters or any adequate and approved method of measurement acceptable to the town for the determination of the sewage discharge, and the rates and charges provided in this chapter shall be applicable thereto.

(C) *Credit - evaporation.*

(1) A lot, parcel of real estate or building which discharges cooling tower or boiler wastewater into the town's sanitary sewage system, either directly or indirectly, and that:

(a) Uses water in excess of 100,000 gallons every month; and

(b) Shows to the satisfaction of the town that a portion of the water used each month, as measured and monitored by a metering system approved by the Director of Public Works, does not and cannot enter the sanitary sewage system; then the owner or other interested party shall install and maintain meters, weirs, volumetric measuring devices or other adequate and approved methods of measurement and reporting acceptable to the town for the determination of the actual monthly sewage discharge that will be applicable to the rates and charges provided in this chapter.

(2) To qualify and continue to qualify for any monthly credit under this section, each owner applying for or receiving such a credit shall:

(a) Have each meter and device examined and certified for accuracy, at least once each calendar year, by an independent examiner;

(b) File a written certification by the examiner of the accuracy of each meter and device, in a form approved by the town, with the Clerk-Treasurer and Director of Public Works within ten days of each examination; and

(c) Shall permit the Director of Public Works or his/her designee to monitor and inspect all meters and devices to verify their proper operation and accuracy and pay all costs incurred by the town for the inspection verification and monitoring of all such meters and devices.

(D) In the event two or more residential lots, parcels of real estate or buildings discharging sanitary sewage, water or other liquids into the town's sanitary sewage system, either directly or indirectly, are users of water, and the quantity of water is measured by a single water meter, then, in each such case, for billing purposes, the quantity of water used shall be averaged to each user and the minimum charge and the sewage rates and charges shall apply to each of the number of residential lots, parcels of real estate or buildings served through the single water meter.

(E) In the event two or more dwelling units such as trailers, apartments or housekeeping rooms discharging sanitary sewage, water or other liquids into the town's sanitary sewage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then, in such case, billing shall be for a single service in the manner set out elsewhere in this chapter, except that the minimum charge shall be equal to the product of the number of dwelling units times the minimum charge for a 3/40 meter size water connection. In the case of trailer parks, the number of dwelling units shall be computed and interpreted as the average number of trailers located and installed in the park in the preceding quarter, plus any other dwelling units served through the meter. A dwelling unit shall be interpreted as a room or rooms or other living space or spaces in which cooking facilities are provided.

('80 Code, ' 13.40.020) (Am. Ord. 2006-13, passed 7-24-06; Am. Ord. 2009-08, passed 6-8-09) Penalty, see ' 51.999

' 51.077 CHARGES BASED ON STRENGTH AND CHARACTER OF SEWAGE.

(A) In order that the rates and charges may be justly an equitably adjusted to the service rendered, the town shall base its charges not only on volume, but also on the strength and character of the sewage and waste which it is required to treat and dispose of. The town shall require the customer, at the customer's expense, to measure and determine the strength and content of all sewage and waste discharged, either directly or indirectly, into the town's sanitary sewer system or sewage treatment works in such manner and by such method as may be deemed practical in the light of the conditions and attending circumstances of the case, in order to determine the proper charge. Any and all commercial and industrial installations shall be so controlled and/or treated as to the sewage strength that their effluent discharged to the town's sewer system shall have a biochemical oxygen demand not to exceed 250 parts per million and suspended solids not to exceed 250 parts per million at any time.

In case the town permits any user to discharge industrial waste into the town's sewer system in excess of the foregoing strength, additional rates shall be imposed as follows:

(1) For five-day BOD in excess of two and one-tenth pounds for each 1,000 gallons of sewage and wastes, an additional charge of \$0.07 shall be made for each pound.

(2) For suspended solids in excess of two and one-tenth pounds for each 1,000 gallons of sewage and wastes, an additional charge of \$0.07 shall be made for each pound.

(B) The town shall prohibit the dumping of industrial wastes which, in its discretion, affect and are deemed harmful to the operation of the sewage treatment works of the town, or may require methods of pretreatment of wastes to reduce the characteristics of the waste satisfactory to the town.

('80 Code, ' 13.40.030) Penalty, see ' 51.999

Cross-reference:

Fee schedule, see ' 11.053

' 51.078 BILLING PROCEDURES; DUE DATE.

Billing of sewage rates and charges shall be on a monthly basis. All bills shall be payable within 15 days after the due date thereof as stated in the bill and any bill not so paid shall be promptly collected and enforced in the manner and subject to the penalties provided in IC 36-9-23-25, 36-9-23-26, 36-9-23-28 and 36-9-23-34 and all amendments and supplements thereto.

('80 Code, ' 13.40.040) (Ord. 12-1973, passed - -73) Penalty, see ' 51.999

' 51.079 COLLECTION PROCEDURES; OWNER LIABILITY.

The rates and charges shall be prepared and billed by the town and shall be collected in the manner

provided by law and ordinance. The rates and charges will be billed to the tenant or tenants occupying the property served, unless otherwise requested in writing by the owners, but such billing shall in no way relieve the owner from liability in the event payment is not made as herein required. The owners of the property served, which are occupied by tenants, shall have the right to examine the collection records of the town for the purpose of determining whether such rates and charges have been paid by such tenants, provided that such examination is made in the office in which the records are kept and during the hours that such office is open for business. In case water service is shut off for nonpayment by a tenant, the owner of the property will receive a duplicate of the notice of shut off, but only if the property owner shall have first filed with the Clerk-Treasurer a written request for such notice. ('80 Code, ' 13.40.050) (Ord. 1981-30, passed 10-31-81) Penalty, see ' 51.999

' 51.080 CONNECTION CHARGES.

(A) *Definition.*

BASE UNIT. The equivalent of a single-family house and each individual apartment, condominium or other single-family living unit in any multi-unit building, structure or complex, or any other facility, that supplies not in excess of 310 gallons per day to the sanitary sewer system in accordance with 327 I.A.C. Article 3 Construction Permit Sanitary Sewer Designed Summary Form, as amended from time to time, which is incorporated herein by reference.

(B) The following Asewer connection charge,@ for treatment capacity allotted at the wastewater treatment plant for new users, and Asewer collection charge,@ for sewer line capacity allotted new users, are hereby established pursuant to I.C. 36-9-23-25(b)(4) and (d)(1-6) and (e) per base unit for each sewer permit issued by the town of Lowell.

(1) Sewer connection charge: \$2,015 per base unit.

(2) Sewer collection charge: \$1,635 per base unit.

(C) All commercial, governmental, industrial, institutional or other facilities shall pay an equivalent sewer connection charge and sewer collection charge for each permit that is equal to the number of base units, plus any multiples or fractions thereof as determined by the Town Engineer, times the sewer connection charge and sewer collection charge per base unit.

(D) No sewer permit shall issue until all connection charges and collection charges per base unit, and any applicable multiples or fractions thereof and any applicable surcharges or other fees, have been paid in full. Said charges, plus any surcharges as hereinafter or otherwise provided, shall be paid to the Clerk/Treasurer by the person securing the permit at the time of the issuance of any sewer permit. The sewer connection fee and sewer collection fee should be reviewed on a bi-annual basis after their initial enactment and implementation to ensure the connection charge and collection charge are cost-based, fair and equitable to all users.

(E) The "Study of Wastewater Facility Connection Charge and Computation of Collection Charge per EDU" by Financial Solutions, Inc., dated November 22, 2002, is incorporated by reference as part of this ordinance and shall be on file at Clerk-Treasurer=s office.

(F) *East Side Sewer Adjusted Collection Fee.*

(1) Pursuant to the report of Financial Solutions Group, Inc., dated June 18, 2007, and the Commonwealth Engineers West Fork Spring Run Basin Sewer Master Plan of October 1998, which are incorporated herein by reference, the Council now

finds it is just and equitable to adjust the sewer collection fee established under ' 51.080(B)(2) from \$1,635 per base unit to the amount of \$2,060 per base unit for each base unit serviced by the East Side Interceptor Sewer.

(2) The sewer collection charge established under ' 51.080(B)(2) is hereby adjusted to the amount of \$2,060 per base unit for each base unit connecting to the East Side Interceptor Sewer.

('80 Code, ' 13.40.070) (Ord. 12-1973, passed - -73; Am. Ord. 1995-10, passed 8-14-95; Am. Ord. 1998-22, passed 10-26-98; Am. Ord. 2003-02, passed 3-10-03; Am. Ord. 2004-11, passed 4-12-04; Am. Ord. 2007-15, passed 9-10-07) Penalty, see ' 51.999

Cross-reference:

Fee schedule, see ' 11.053

' 51.081 SURCHARGE FOR USER OUTSIDE TOWN LIMITS.

A surcharge of 150% of the rates and charges set out in this chapter shall be charged to users outside the corporate limits of town.

('80 Code, ' 13.40.080) (Ord. 12-1973, passed - -73)

' 51.082 STUDIES TO DETERMINE FAIRNESS AND EQUITY OF CHARGES.

(A) In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various users or user classes, the town shall cause a study to be made within a reasonable period of time following the first improvement project. Such study shall include, but not be limited to, an analysis of the cost associated with the treatment of excessive strength effluents from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the sewage works and the adequacy of its revenue to provide reasonable funds for operation and maintenance, replacements, debt service requirements and capital improvements to the waste treatment system.

(B) Thereafter, on an annual basis, within a reasonable period of time following the normal accounting period, the town shall cause a similar study to be made for the purpose of reviewing the fairness and equity of the rates and charges for sewage services on a continuing basis. Such studies shall be conducted by officers and/or employees of the town, or by a firm of certified public accountants and/or a firm of consulting engineers, which firms shall have experience in such studies.

('80 Code, ' 13.40.090) (Ord. 12-1973, passed - -73; Am. Ord. 7A-1974, passed - -74)

' 51.083 DEPOSIT.

(A) A deposit in the amount of \$25 shall be required of each user of the town's sanitary sewage system. The deposit will be retained by the town in a separate account. The deposit, less any outstanding or delinquent charges with penalty, and service fee, if any, shall be refunded to the depositor within 30 days upon receipt of:

(1) A notarized statement from the depositor that, as of a certain date, the land being served has been conveyed or transferred to another person and stating the name and address of the person; or

(2) A notarized statement from the depositor that as of a certain date the property being served is no longer connected with or uses any part of the sewage system of the town.

(B) If the owner, lessee, or user of the property served fails to satisfy costs and charges within 60 days of the termination of use or ownership of the property served, the deposit shall be forfeited by the depositor and shall be applied to satisfy the rates or charges owing.

('80 Code, ' 13.40.100) (Ord. 1981-30, passed 10-31-81; Am. Ord. 1993-20, passed 8-9-92) Penalty, see ' 51.999

Cross-reference:

Fee schedule, see ' 11.053

' 51.084 ESTIMATION OF CHARGE.

If, for any reason, it is not possible to obtain an accurate reading from any water/sewage meter which has been installed by or on behalf of the town, the town shall estimate the charge to be billed to the utilities customer by taking the average of the billings for the three months immediately preceding that month. At such time as the town is able to obtain an accurate reading, it shall bill the customer for the deficiency if the estimated payment was an underpayment, or credit the account if it was overpaid. ('80 Code, ' 13.40.110) (Ord. 1982-28, passed 12-28-82)

' 51.085 SUMMER SPRINKLING RATE.

Sewer bills for eligible customers for water use in the months of June, July, August, and September shall be adjusted for the watering of lawns and gardens in accordance with the following procedures:

(A) Eligible customers shall consist of:

(1) Residential customers of occupied single family dwellings, duplexes, triplexes and quad residential units who shall be designated as Class A eligible customers. Residential customers who have their sewer bill paid by homeowners' associations shall not be eligible for the summer sprinkling rate.

(2) Builders/developers of unoccupied, unsold residential single family dwellings, duplexes, triplexes and quad residential units who shall be designated as Class B eligible customers.

(B) The sewer charge billed to Class A eligible customers shall be the lesser of:

(1) The billing computed by using the metered water used for that particular month; or

(2) An average of the sewer billing for the months of January, February, and March of that same year. Customers who have their water service terminated by the water utility during the months of

January, February, and March will utilize the months of the prior October, November, and December to determine their average sewer billing. New customers will receive the summer sprinkling rate based on the use of 7,000 gallons per month.

(C) The sewer charge billed to Class B eligible customers shall be the total of:

(1) The billing computed by using the metered water used for that particular month; plus

(2) A sewer charge based upon the usage of 7,000 gallons of water per month.

(D) The summer sprinkling rate shall not apply to any property or premises which are partially or fully used for commercial or industrial purposes. (Ord. 1996-10, passed 5-13-96; Am. Ord. 1997-24, passed 11-24-97; Am. Ord. 2005-28, passed 10-10-05; Am. Ord. 2008-21, passed 9-22-08; Am. Ord. 2009-20, passed 10-12-09)

ADMINISTRATION AND ENFORCEMENT**' 51.095 ENFORCEMENT OF REGULATIONS.**

The town shall make and enforce bylaws and regulations as may be deemed necessary for the safe, economic and efficient management of the town's sewage works, including the sewer system and the treatment plant, for the construction and use of house sewers and connections to the sewer system, and for the regulation, collection, rebating and refunding of rates and charges.

('80 Code, ' 13.40.060) (Ord. 12-1973, passed - -73)

Cross-reference:

Right to a hearing prior to discontinuation of service for nonpayment of combined water/sewer bill, see ' 52.010

Statutory reference:

For provisions regarding discontinuance of water service for nonpayment of sewer service charges, see IC 36-9-23 et seq.

' 51.096 RIGHT OF ENTRY.

(A) *Right of entry of Inspector, and the like to any premise.*

(1) The Inspector and/or other duly authorized representative of the town, after notice to any individual in responsible charge as designated by the person who is an owner, tenant, or otherwise has possession, shall be permitted to enter, upon presentation of proper credentials, all premises for the purpose of inspection, observation, measurement, sampling, and testing in compliance with the provisions of this chapter. Entry shall normally be made during the daylight or operating hours or at reasonable times.

(2) While performing the necessary work on any premises referred to in above, the Inspector or duly authorized representative of the town shall observe all safety rules applicable to the premises established by the user and the user shall be held harmless for injury or death to the town employee, and the town shall indemnify the user against liability claims and demands for personal injury or property damage asserted against the user and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of user to maintain safe conditions as required.

(B) *Right of entry of Director, Inspector, and the like to any easement.* The Director, Inspector and/or other duly authorized employee of the town shall be permitted to enter, upon presentation of proper credentials, all premises through which the town holds an easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, testing, repair and maintenance of any portion of the sewage works lying within such easement. All subsequent work, if any, within an easement, shall be done in full accordance with the terms of the easement pertaining to the premises involved.
('80 Code, ' 13.44.010)

' 51.097 LIEN AND PENALTY CHARGE; NOTICE.

(A) Charges for sewer service shall constitute a lien against the lot, parcel of real estate or building to which service was provided. The lien shall attach at the time of filing of the notice of lien in the County Recorder's office as provided for hereinafter. If charges are not paid within a prescribed period as set forth by the Town Council from time to time, a 10% penalty shall attach. The amount due, plus penalty and reasonable attorney' s fees may be recovered by the town. ('80 Code, ' 13.44.020)

(B) In event that a nonoccupant owner has notified the town of a mailing address for notice purposes, then a lien will not attach against the property unless notice is mailed to the owner within 20 days after the utility charges incurred by the non-owner occupant becomes 60 days delinquent. ('80 Code, ' 13.44.030) Penalty, see ' 51.999

' 51.098 RECORD OF DELINQUENCY; TAX STATEMENTS.

(A) From time to time the town official charged with collection of charges shall prepare a list of delinquent accounts including the name of the owner, a description of the real estate and the amount of the delinquency. The list shall be recorded in the office of the County Recorder.

(B) At the time of recording, notice shall be mailed to each owner. A service charge in the amount of \$5 shall be assessed at the time of recording. From this list the officers shall certify to the County Auditor on or before July 10 of each year, a list of any liens which remain unpaid for collection on the following November. The County Auditor shall enter the delinquency plus penalty and service fees on the tax duplicate of the land or lots involved.
('80 Code, ' 13.44.040) Penalty, see ' 51.999

Cross-reference:

Fee schedule, see ' 11.053

' 51.099 FORECLOSURE OF LIEN.

The town shall have the additional remedy available to foreclose upon any lien and to recover the amount plus penalty, service charges and reasonable attorney fees.

('80 Code, ' 13.44.050)

be subject to amendment by Council from time to time. The current schedule is available for public inspection at the town offices during normal business hours. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of a provision of " 51.005 or 51.060 is committed, continued or permitted by such person.

' 51.100 RELEASE OF LIEN.

If a lien is not filed prior to a bona fide conveyance, the lien shall not be valid as against a bona fide purchaser and upon proper proof of such a transfer the town shall release any lien or liens which may have been recorded. Such release shall not affect the town's right to pursue collection against the defaulting consumer.

('80 Code, ' 13.44.060)

' 51.999 PENALTY.

(A) Any person found to be violating any provision of this chapter, except " 51.005 and 51.060, shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(B) Any person who continues any violation beyond the time limit provided for in division (A) of this penalty is guilty of a misdemeanor and upon conviction thereof shall be punished as provided in ' 10.99. Each day in which any such violation continues shall be deemed a separate offense.

(C) Any person violating any of the provisions of this chapter shall become liable to the town for any expense, loss or damage occasioned the town by reason of such violation.

('80 Code, ' 13.44.070) (Ord. 4-1965, passed - -65)

(D) Any person who violates any provision of " 51.005 and 51.060 shall be subject to a penalty of a fine determined by the Town Council and shall

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Inspection and Termination of Service

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CHAPTER 52: WATERWORKS

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- 52.050 Repairs
- 52.051 Tapping mains
- 52.052 Turning on water

GENERAL PROVISIONS

' 52.001 DEFINITIONS.

ADMINISTRATIVE AUTHORITY. Designated town representative in responsible charge of administrating, reviewing, enforcing, and/or inspecting any work, public or private, within the jurisdiction of the town. Any consultant, construction manager, or technical expert specifically designated

for the purpose of enforcement of the ordinances and construction specifications required by the town.

AIR-GAP SEPARATIONS. The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. An **APPROVED AIR GAP SEPARATION** shall be at least double the diameter of the supply pipe measured vertically above the top rim of the vessel; in no case shall the gap be less than one inch.

APPROVED. In reference to a water supply system or backflow prevention device (or method), shall mean one that has been approved and tagged by the appropriate regulatory agency.

AUXILIARY SUPPLY. Any water source or system other than the public water supply that may be available in the building or premises.

BACK PRESSURE. Backflow caused by a pump, elevated tank, boiler, or other means that could create pressure within the system greater than the supply pressure.

BACKFLOW. The flow of any foreign liquids, gases, or substances in the distributing pipe lines of a potable supply of water. Backflow may occur under two conditions: pressure greater than atmospheric (See **BACK PRESSURE**), and pressure that is subatmospheric (See **BACKSIPHONAGE**).

BACKFLOW PREVENTION DEVICE, APPROVED. A device that has been investigated and approved by the state Department of Environmental Management, Drinking Water Branch, and the town Water Utility.

BACKFLOW PREVENTION DEVICE TESTER, CERTIFIED. A person who is qualified to test backflow prevention devices and has proven his competency to the satisfaction of the appropriate regulatory agency.

BACKSIPHONAGE. A form of backflow due to a negative or subatmospheric pressure within a water system.

CHECK VALVE, APPROVED. As used in cross connection control, means a check valve of substantial construction and suitable materials that is positive in closing and permits no leakage in a direction reverse to the normal flow.

CONTAMINATION. An impairment of the quality of the public water supply by the presence of any foreign substance (organic, inorganic, radiological, or biological) to a degree which creates a hazard to the public health through poisoning or through the spread of disease (see **POLLUTION**) or creates a nuisance condition such as discoloration, staining, tastes, or odors.

CROSS CONNECTION. Any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the town water system, and the other, water from a private source, water of unknown or questionable safety, or stream, gases, or chemicals, whereby there may be a flow from one system to the other.

DOUBLE CHECK VALVE ASSEMBLY, APPROVED. An assembly composed of two single, independently acting, approved check valves, located at each end of the assembly and suitable connections for testing the water-tightness of each check valve.

HAZARD, HEALTH. Any condition, device, or practice in a water supply system and its operation that creates, or may create, a danger to the health and well-being of a consumer.

HAZARD, PLUMBING. A cross connection in a consumer's potable water system that may permit backsiphonage in the event of a negative pressure in the supply line. (Unprotected plumbing-type cross connections are considered to be health hazards. They include, but are not limited to, faulty connections to fixtures such as toilets, sinks, tubs, lavatories, wash trays, and domestic washing machines.)

IDEM. Indiana Department of Environmental Management, Drinking Water Branch.

INDUSTRIAL FLUIDS. Any fluid or solution that may chemically, biologically, or physically degrade the approved water supply.

INDUSTRIAL PIPING SYSTEM, CONSUMER'S. A system used by a consumer for the transmission or storage of anything (fluid, solid, or gas) other than the water supply intended or used for human consumption or food processing. (Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, or store substances that are or may be polluted.)

LABORATORY, APPROVED TESTING. One that is approved by the appropriate health agency and the town Water Utility and is properly staffed and equipped with pumps, meters, measuring devices, and other equipment to test and evaluate fully a backflow prevention device for design, materials, construction, and operation.

NON-POTABLE WATER. Water not safe for drinking, personal, or culinary use.

PERSON. Any person, firm, association, organization, partnership, trust, or associations of persons, joint venture, corporation, or company, and includes the United States, the State of Indiana, and any officer or agent thereof.

POLLUTION. The presence in water of any foreign substance (organic, inorganic, radiologic, or biologic) that tends to degrade its quality so as to constitute a hazard or to impair its potability or usefulness.

POTABLE WATER. Water that is safe for drinking, personal, or culinary use.

PREMISES. Integrated land area including improvements thereon undivided by public thoroughfares or water distribution mains where all parts of the land area are operated under the same management and for the same purpose.

PRIVATE LINE. A separate water piping system serving water-using devices, with a backflow

preventer of air gap separation on this line at the point of takeoff from the potable water line.

PROTECTIVE DEVICES. Any of the following devices:

- (1) Air gap separation;
 - (2) Approved double check valve assembly;
- or
- (3) Approved reduced-pressure-principle backflow prevention device.

REDUCED-PRESSURE-PRINCIPLE BACKFLOW PREVENTION DEVICE. A device containing a minimum of two independently acting, approved check valves, together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the upstream (supply) pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checks at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

SERVICE CONNECTION or POINT OF DELIVERY. The terminal end of a service from the public water supply - that is, where the town Water Utility loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system. The town Water Utility's part of service connection ends at the discharge side of the curb valve. If a curb valve is not present, the connection ends at the property line.

THERMAL EXPANSION. Expansion caused by heating or cooling of a liquid, solid, or gas.

TOWN WATER UTILITY. The owner or operator of the public water supply.

WATER DELIVERED or **DELIVERED WATER.** Any water supplied by a town Water Utility or from a public water supply to a consumer's water system after it has passed the point of delivery and is no longer under the sanitary control of the public water supplier.

WATER SUPPLY, APPROVED. Any public or consumer's potable water supply that has been investigated and approved by the town Water Utility or the Indiana Department of Environmental Management, (IDEM), Drinking Water Branch. In determining what constitutes an approved water supply, the Indiana Department of Environmental Management shall have the final judgement as to its safety and potability.

WATER SYSTEM, CONSUMER=S. Any water system, potable or non-potable, located on the consumer=s premises, whether supplied by a town Water Utility or an auxiliary water system. ('80 Code, ' 13.010)

' 52.002 APPLICABILITY OF PROVISIONS.

The rules, regulations, and water rates provided in this chapter shall be considered a part of the contract with every person, firm, company, or corporation who is supplied with water by means of the water utility system of the town, and every person, firm, company, or corporation, by taking

water by said means, shall be considered to express his, her, their, or its consent to be bound thereby. ('80 Code, ' 13.04.010)

Statutory reference:

Operation of public utilities, see IC 8-1.5

' 52.003 APPLICATION FOR WATER SERVICE.

Application to have water turned on shall be made to the town Clerk-Treasurer and such application shall constitute an agreement by the applicant to abide by and accept all of the provisions of this chapter as conditions governing the use of the town water supply by the applicant. ('80 Code, ' 13.04.020)

' 52.004 DEPOSIT.

(A) A deposit shall be required with each application according to the schedule below, with this sum to be retained by the town to insure payment of all bills.

(B) When service to the applicant is discontinued permanently, this deposit less any amount still due the town for water service plus any penalties and/or service fees which may have accrued shall be refunded without interest.

('80 Code, ' 13.04.030) Penalty, see ' 10.99

Cross-reference:

Fee schedule, see ' 11.054

DEPOSIT

METER SIZE	AMOUNT
5/8"	\$25
1"	36
1 1/4" - 1 1/2"	38
2"	50
4"	75
6" or more	100

' 52.005 DISCONTINUANCE OF USE OF WATER; CHANGE IN OWNER/OCCUPANT.

Any person desiring to discontinue the use of town water upon his premises shall give notice to the town Clerk-Treasurer. Any time change in ownership or occupation of the premises occurs, notice must be provided to the town Clerk-Treasurer. Notice shall be either oral or in writing. The water utility personnel shall inspect the meter each time a change in ownership or occupancy occurs.

('80 Code, ' 13.04.040) Penalty, see ' 52.999

' 52.006 CONTROL AND MANAGEMENT.

(A) The town Water Utility shall be and remain under the control and management of the Town Council, with power to do all such acts as may be necessary for efficient management and protection of the water utility and the residents of the community.

('80 Code, ' 13.04.050)

(B) Effective September 14, 1998, the town Water Utility is removed from the jurisdiction of the Indiana Utility Regulatory Commission. (Ord. 1998-20, passed 9-14-98)

Statutory reference:

Authority of Town Council to control town utilities, see IC 8-1.5-3-3

Authority to remove a municipally owned water utility from the jurisdiction of the Indiana Utility Regulatory Commission, see IC 8-1.5-3-9.1

' 52.007 EMERGENCY CONTROLS.

The President of the Town Council shall have the authority to declare an emergency with regard to the water supply and during such emergency the President shall have the authority to prohibit the watering of lawns, washing of motor vehicles, filling swimming pools and/or any other extraordinary use of water; provided that such emergency declaration shall not exceed 30 days unless renewed by the President; and,

provided further that notice of such emergency shall be published in the next issue of the local newspaper of general circulation and announcements shall be carried on the local radio station.

('80 Code, ' 13.04.060) (Ord. 1977-2)

' 52.008 DISCONTINUANCE OF SERVICE.

The town shall be authorized to discontinue service to any water consumer or to any property upon failure by such water consumer or owner of the property to pay any charges legally due to the town for water, sewer, or sewage disposal service or for penalties or fines levied by the town. However, if discontinuance of service is due to charges against the consumer and not a penalty or fine due to emergency controls, such charges shall have been due and unpaid for at least fifteen (15) days.

('80 Code, ' 13.04.070)

Cross-reference:

Notice of discontinuance, see ' 52.010

' 52.009 [RESERVED].

' 52.010 NOTICE OF DISCONTINUANCE.

(A) *Emergency.* Should an emergency arise that the water superintendent deems unsafe or jeopardizes the safety and well-being of the residents of the town, service to potential unsafe connection shall be discontinued immediately without prior notification. Conditions of potential back-siphonage or cross connections of hazardous material and/or conditions that may cause property damage to the serviced property or adjoining properties are general conditions that warrant such action, but are not limited to these conditions.

(B) *Unpaid charges for town services.*

(1) Prior to discontinuance of service, the town shall give written notice to such water consumer or the owner of property of the possibility of

termination of service if the charges are not paid on or before a date to be specified in such notice. Notice shall provide the customer with a procedure for challenging a disputed bill. Notice shall be either hand-delivered by utility employees or regular United States mail posted not less than ten days prior to the date upon which service is to be discontinued, and shall be addressed to such water consumer or such property owner at his last known address.

(2) Any person who is delinquent on their combined water/sewer bill and is subject to disconnection for nonpayment thereof must be notified of their right to a hearing before the Department of Public Utilities Committee, consisting of the Public Works Director, Billing Supervisor, and the Water Distribution Superintendent, to determine the appropriateness of the disconnection.

(3) If a Department of Public Works customer desires to request a hearing contesting the disconnection for nonpayment of their combined water/sewer bill, the customer must request the hearing in writing at the Office of the Department of Public Utilities, 501 East Main Street, Lowell, Indiana 46356, within ten business days after the date of the mailing of a disconnection notice.

('80 Code, ' 13.04.080) (Am. Ord. 2014-24, passed 11-24-14)

USE REGULATIONS

' 52.025 INJURING OR TAMPERING WITH HYDRANTS.

(A) No person or persons other than the members of the fire department or the water department of the town, for the uses and purposes of said department, and such other purposes as are specifically authorized by the Town Council, shall open any hydrant or attempt to draw water therefrom, or in any way open any hydrant connected with the waterworks or mains of the town, or in any manner

interfere with or injure any of the hydrants, mains, pipes, or other fixtures. It is unlawful for any person or persons to willfully or carelessly break or injure any of the public hydrants belonging to the town for the supply of the citizens with water, or pollute or unnecessarily waste the water at any such hydrants. It is unlawful for any member of the fire department to let out or suffer or permit any person or persons to take wrenches furnished by the town to the different fire companies to be used by the companies in cases of fire, or to suffer or permit any of the wrenches furnished the companies to be taken from the hose houses of the companies, except as they accompany fire equipment on occasions of fire, or for other purposes connected with the fire department.

(Ord. 138 S43, 1916)

(B) Any unauthorized person taking water from a hydrant shall be billed as specified under " 52.075 through 52.079, and shall pay for the amount of water that was taken. Should the amount of water taken be an unknown quantity, the quantity to be billed for shall be estimated by the water utility superintendent. That quantity, times two, shall be the corrected estimated amount to be paid. Persons or companies found to have taken water without the utility's permission are subject to criminal prosecution and payment for the water plus penalty to be levied by the Town Council.

('80 Code, ' 13.08.010) Penalty, see ' 52.999

' 52.026 OBSTRUCTING ACCESS TO VALVES, CORPORATION STOPS.

(A) No person shall obstruct the access to any valves or corporation stops connected with any water pipes within the street, alley, or public place in any manner in the town by means of any lumber, brick, building materials, for other articles.

(B) Damage to any valves, curb stops, or system equipment due to the obstruction or construction of landscaping, driveways, sidewalks, or any activity that damages or prohibits access to the valves or system equipment shall be prohibited.

('80 Code, ' 13.08.020) Penalty, see ' 52.999

' 52.027 TAMPERING WITH THE WATER UTILITY SYSTEM.

(A) It is unlawful for any person not authorized by the town to tamper with, alter, or injure any part of the town waterworks or supply system, or any water meter. A service charge of \$15 will be added to the bill of any user if it becomes necessary for the town to reseal the water meter or meter register located on the property of such user.

(B) Any damage resulting from unauthorized use or tampering with the water utility system will result in a charge for the cost of repair by time and material plus 10% administrative cost. A fine for tampering shall be levied against anyone tampering with curb valves, meter pits, meters, or meter registers.
('80 Code, ' 13.08.030) (Ord. 1981-30, passed 10-31-81) Penalty, see ' 52.999

Cross-reference:

Fee schedule, see ' 11.054

damage to the valves or equipment. Repair shall be by town Water Utility or their agent and billed to the plumbing contractor at a rate of time and material plus 10%, and payment for the water plus penalty to be levied by the Town Council. The estimated quantity of water bypassed or diverted shall be made by the utility superintendent.

(C) Any person turning on water service for an owner, tenant, or lessee without the water utility's permission shall be fined and subject to criminal prosecution.

' 52.028 TAMPERING WITH METERS.

Any person caught bypassing a meter, tampering with a meter or register, or causing in any way for water to be diverted from being metered or registered shall be subject to charges for damages to water utility equipment by time and material plus 10% administrative cost.
('80 Code, ' 13.08.030) (Ord. 1981-30, passed 10-31-81) Penalty, see ' 52.999

' 52.029 TAMPERING WITH WATER SERVICE.

(A) At no time shall the water service, either residential or commercial, be turned on or off by any unauthorized individual. Unauthorized tampering of service valves by individuals or plumbing contractors will result in fines and/or penalties.

(B) Persons tampering with the water service connections or service valves shall be liable for any

(D) Any resident, owner, or lessee having the water service turned on by anyone other than the town Water Utility shall pay for the estimated quantity plus a fine.

(E) All meter deposits and occupancy permits shall be made and given before water service for domestic use will be turned on.
(80 Code, ' 13.08.030) (Ord. 1981-30, passed 10-31-81) Penalty, see ' 52.999

CONNECTION AND CONSTRUCTION REGULATIONS

' 52.040 WORK PERMIT REQUIRED.

(A) No plumber, pipe fitter, or other person shall make any attachment or alteration to any pipe, water main, or water fixture attached to the water utility's distributing pipes, unless a written notice to proceed is received from the administrative authority. All work shall be performed according to the town's construction specifications and must meet all provisions of the contractor's handbook. The work shall comply with all specifications contained in the handbook unless superseded by state or federal regulations or plumbing code, in which case the more stringent of the two shall be used as determined by the town's administrative authority. A separate permit shall be obtained for each separate job, alteration, or modification. (Ord. 138 S17, 1916)

(B) No connections with a water main shall be made without a permit being issued and 24 hours notice having been given to the administrative authority. All such connections shall be made and all such work shall be done at the expense of the applicant. All such connections shall be made under the supervision of the administrative authority, and no connection shall be covered until the work has been inspected by him or her. Applications for such connections must be made to the Clerk-Treasurer, and a fee shall be made for each connection. (Ord. 3-1961 S4)
(80 Code, ' 13.12.010) Penalty, see ' 52.999

' 52.041 SERVICE CONNECTION REQUIREMENTS.

(A) No service connection or other attachments to any of the water mains shall be made except by heavy brass corporation stops or saddles. All service shall be constructed as specified by the town's construction specifications and contractor's handbook. All services shall have a separate curb valve for each residence. All residences shall have a valve before and after the meter as the service enters the crawl space, basement, or slab of the residence or structure and a curb valve located at the property line.

(B) The valves shall be placed before and after the meter connection; the valves shall be located at a point immediately after the service enters the building and before any other connections are made to the service line. All curb valves shall be located at the easement. At no time shall service curb valves be placed on private property. Placement of curb valves shall be determined by the administrative authority.

(C) In all cases, service connection requirements shall be as described in water utility's construction specifications and contractor's handbook. Any deviation or clarification of information will be made by the town's administrative authority. Any deviation or change which does not comply with the handbook or the administrative authority and is installed without permission of the administrative authority will be subject to correction at the owner's/contractor's expense. Water service may be discontinued until the deviations are rectified.
(80 Code, ' 13.12.020) Penalty, see ' 52.999

' 52.042 LAYING OF SERVICE LINE.

(A) Every service pipe shall be provided with a control valve for each consumer, easily accessible and so situated that the water can be conveniently shut off in the basement or crawl space as specified in town's construction specifications and contractor's handbook. Such control valve shall be equal in strength to the ferrule in the street main. There shall be placed upon each service pipe connected with the city water system a curb box and a cutoff valve, either at the sidewalk or pavement line, or the property line, as the Superintendent directs, and in no event shall such

curb box or cutoff valve be placed upon private property or beyond the jurisdiction of the town.

(B) The water utility's responsibility stops at the curb valve or meter pit. If both are used the point at which the utility's responsibilities end shall be at the valve closest to the water main.

('80 Code, ' 13.12.030)

' 52.043 METER PLACEMENT.

(A) (1) The service line from the city water main into the crawl space or basement on the customer's premises shall be at least : inch in diameter with shut-off control valves as described in the town's construction specification and contractor's handbook. Any structure built with a crawl space and connected to the town water system shall have an outside access to said crawl space. Said opening shall be a minimum of 18 inches by 24 inches to allow comfortable means of access.

(2) It is the owner's responsibility to have adequate protection to prevent freezing in a crawl space or basement. Damage caused by freezing of residential meters shall be repaired by the utility on time and material basis and charged to the owner.

(3) All repairs to commercial meters, larger than two inches, shall be by a qualified technician designated by the administrative authority. All costs incurred shall be reimbursed to the utility by the owner.

(B) All services of one inch diameter or smaller shall contain at least 18 inches of rigid copper material or polyvinyl chloride between the shut-off control valve installed into a copperhorn for the support of a meter as detailed in town Water Utility's construction specifications or as approved by the administrative authority.

(C) All service lines of : inch diameter or smaller will be furnished a meter by the utility which shall be located to allow reading and/or removal by the utility personnel when required. No pit meters will be permitted except by written authorization.

(D) Customers with services larger than : inch shall install a meter specified by the administrative authority and paid for by, or reimbursed to the utility by the owner of the property or his agent. A shut-off control valve shall be installed on each side of the meter to permit the removal of the meter for repair or examination. The customer shall also supply a sleeve or bypass for the purpose of meter service for insertion by the utility in place of the meter during such repair or examination to prevent serious interruption of service. The bypass shall have two control valves that can be locked and sealed or as specified by the administrative authority. (Ord. 1977-37)

(E) Services with meters larger than : inch shall be directed by the water utility to test the meters at intervals to be determined by the administrative authority. The adjustments, if necessary, shall be calculated from either past or future billing information. Determinations on procedures of how adjustments will be made shall be made by the administrative authority. ('80 Code, ' 13.12.040)

' 52.044 CONSTRUCTION SPECIFICATIONS.

(A) All service lines and water mains shall be constructed and/or installed as specified in the town water utility's construction specifications and contractor's handbook or as required by the administrative authority. The contractor/owner shall submit all plans and documents as required by the town's administrative authority and comply with all requirements of superseding agencies before construction is to begin. All permits, easements or right-of-ways shall be obtained prior to final approval of plans and/or construction. Any deviations from specifications or engineered drawings must be accepted by the town's administrative authority in writing before any changes can be made to service lines and distribution mains or any part thereof detailed in the plans. Deviation from specified materials as described in the town Water Utility's construction specifications shall be accepted by the town's administrative authority before installation.

(B) Installation of material prior to acceptance in writing by the town's administrative authority will result in discontinued water service to the area or penalty or both until complete compliance to material

specifications and construction requirements are satisfied as determined by the town's administrative authority.

(C) Any service line, water main, or equipment installed in a manner which does not follow the town Water Utility's construction specifications and contractor's handbook as determined by the town's administrative authority is subject to denial of acceptance and all deficiencies will be rectified before water service is permitted.
('80 Code, ' 13.12.050)

' 52.045 CLAIMS AGAINST THE TOWN FOR BREAKAGE OR SERVICE INTERRUPTION PROHIBITED.

(A) No claim shall be made against the town because of the breaking of any pipe or valve or corporation stop or for any interruption of the water supply by reason of the breakage of the machinery, or any portion of the system, or stoppage for necessary repairs. (Ord. 138 S29, 1916)

(B) All residences are required to have a control valve at the service connections before the meter where the service enters the basement, crawl space, or slab. The valve is for emergency purposes, allowing shut-off by the customer and to insure that problems caused by malfunctioning curb valves do not occur.

(C) The town Water Utility is not responsible for damages caused by curb valves causing flooding of any kind.

(D) It is the owner's responsibility to assure that service is completely shut off when requests for discontinuance of service are made.
('80 Code, ' 13.12.060)

' 52.046 SERVICE PIPES ACROSS LOTS.

Where there is a main or pipe in front of or along the side of any lot or premises, water for such lot or premises shall be taken from the main or pipe in front of or along the side of the same, and in such

cases, service pipes shall not run across lots or from one premises to another. A curb valve must be provided and placed within the jurisdiction of the town for each and every separate premises.

('80 Code, ' 13.12.070) (Ord. 138 S31, 1916)

' 52.047 SERVICES AND CURB VALVES.

(A) In all cases, the town cutoff or corporation box shall be placed within the jurisdiction and under the control of the town, and a cutoff or corporation box shall be placed upon each service pipe in the town and, when practical, be placed at the property line or upon the sidewalk line. (Ord. 138 S32, 1916)

(B) Each and every lot, building, or structure which is now, or may at some future date become, a separate or independent water utility account shall be serviced by a curb valve and water service which is accessible by the water utility on an easement or right-of-way. The curb valves must be located to allow access for maintenance purposes.

(C) Curb valve placement shall be at the discretion of the town administrative authority.

(D) New subdivisions shall comply with the utility's construction specifications and contractor's handbook and locations of curb valves and services will be included on the engineered drawings.
('80 Code, ' 13.12.080) Penalty, see ' 52.999

' 52.048 CONNECTIONS OUTSIDE THE TOWN.

(A) Whenever the premises to be supplied with water lies outside of the town limits, the party or parties so applying shall pay the entire expense of laying such service pipe and/or distribution main to the premises desired, including the cost of tapping and the curb box.
(Ord. 138 S33, 1916)

(B) Any connections to the town's water utility outside the town's corporate limits shall be permitted at the discretion of the Town Council. Service to residences, subdivisions, or commercial properties shall be limited to the capacity of the treatment

facility as determined by the administrative authority. Council refusal of requests for service are determined by facility capacity, economic analysis, and design feasibility. The town shall not be held liable for refusals of requests for service for any reason.

(C) Any residence, subdivision, or commercial property connecting to the town's water system shall comply with all town, county, state, or federal regulations which govern the operation of water distribution systems and connections thereto. All town specifications, ordinances, and requirements shall apply to the system connecting to town's water distribution system, unless agreed to in writing by the Town Council.

(D) The liability of town Water Utility or its agents of any kind due to water supplied by the water utility to the unincorporated subdivision or commercial property shall end at a point established by the Town Council. Property damage, public health problems, or any conditions which result from the connection to the town Water Utility's distribution system or from conditions which are caused by the unincorporated distribution system are the responsibility of the owner/developer.

(E) The owner of the property shall be responsible for backflow protection and cross connection control and shall be liable for any damage caused by such.

(F) Failure to comply with any provisions of state, county, federal, or town ordinance, law, or requirement shall be terms for discontinuance of service.

('80 Code, ' 13.12.090)

' 52.049 CROSS CONNECTION CONTROL REGULATIONS.

(A) No person, firm, or corporation shall establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary, or emergency water supply other than the regular public supply of the town may enter the supply or distribution system of
1996 Repl.

said municipality, unless such private, auxiliary, or emergency water supply and the method of connection and use of such supply shall have been approved and tagged as per requirements of the town Building Department and IDEM, Drinking Water Division in accordance with Rule 320 IAC 3-9.

(B) It shall be the duty of the town Building Department to cause inspections to be made of all properties served by the public water system where cross connection with the public water system is deemed possible and/or a hazard. The Building Department shall develop and supply the Town Council with a listing of utility customers classified as cross connection hazards by 320 IAC 3-9.1-4(C) and shall submit a schedule of annual inspections and/or reinspection of these customers and any others deemed a hazard.

(C) Upon presentation of credentials, the representative of the town shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the town for cross connections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the pipe system or systems on such property. The refusal of access or refusal of requested pertinent information shall be deemed evidence of the presence of cross connections.

(D) The town Water Utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this chapter exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after ten days notice is served on the owner, lessee, or occupants of the property or premises where a violation is found or suspected to exist. Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this chapter.

(E) Service may be immediately discontinued if it is deemed by the administrative authority that a cross connection or an emergency endangers public

health, safety, or welfare and requires immediate action, and a written finding to that effect is filed with the Clerk-Treasurer of the town and delivered to the consumer's premises. The consumer shall have an opportunity for hearing within ten days of such emergency discontinuance.

(F) All consumers-using toxic or hazardous liquids, all hospitals, mortuaries, wastewater treatment plants, laboratories, and all other hazardous users shall install and maintain at their expense a reduced-pressure-principle backflow preventer in the main water service line serving each building on the premises. The backflow preventer shall be located in an easily accessible location not subject to flooding or freezing and must be installed and inspected in accordance with 320 IAC 3-9.1 and the Indiana Plumbing Code. Proof of inspection shall be given to the Water Utility.

(G) This chapter does not supersede the locally adopted Indiana Plumbing Rules but is supplementary to it.

(H) The town shall not be responsible for damage caused by thermal expansion resulting from the placement of any type of backflow or cross connection prevention device or any other type of choking device. An auxiliary relief valve or expansion chamber shall be installed in such a way as to limit thermal expansion of the water being heated to not more than 80 PSI static pressure on the system.
(80 Code, ' 13.12.095)

' 52.050 REPAIRS.

(A) The customer shall make all necessary repairs to service pipes downstream from the utility-owned shutoff valve. The Superintendent may discontinue service to the customer in the event the Superintendent advises the customer either verbally or by written notice of the specific repair necessary. The notice may be written or verbal and may be delivered to the customer or a member of his or her household by a designated agent of the water utility. The Superintendent may discontinue service of the

customer without advance notice, if the Superintendent finds that the problem necessitating the repairs creates a dangerous condition.

(B) If a leak occurs on the customer's service after the curb valve where the leak is on the customer's service line on private property, and the home owner has been notified of the leak, the repair of the leak must be made in a reasonable amount of time. If said leak is not repaired in a reasonable amount of time the water utility may discontinue service until the leak is repaired. Wasting of water at the utility's expense will not be allowed.

(80 Code, ' 13.12.100) (Ord. 1978-12)

' 52.051 TAPPING MAINS.

(A) All tapping of mains shall be done by, or under the direction of the Water Utility. Any person, firm, or corporation desiring that town water be conducted into his, her, their, or its premises shall pay all the expense incident to the tapping of the main, laying of service pipe, installing cutoff, and all and every charge for labor or material used or required in so conducting the water into his, her, their, or its premises. If a contractor is involved in the tapping of a main he shall first receive permission to do so from the water utility and perform the work under the supervision of the administrative authority.

(Ord. 138 S40, 1916)

(B) All materials and methods shall be as specified by the town Water Utility's construction specifications and contractor's handbook, or as specified by the town's administrative authority.

(C) Tapping of mains by persons other than town Water Utility personnel shall be witnessed and inspected by town's administrative authority.

(D) The contractor/owner must first receive permission for water taps from the town Building Department in writing.

(E) Anyone found illegally tapping or connecting to the town Water Utility's water distribution system shall be subject to penalties and

finer as decided by the town Council.
('80 Code, ' 13.12.110) Penalty, see ' 52.999

' 52.052 TURNING ON WATER.

No water from the town water supply shall be turned on for service into any premises by any person without the approval of the Water Superintendent or his or her authorized agent.

('80 Code, ' 13.12.120) (Ord. 3-1961 S1) Penalty, see ' 52.999

INSPECTION AND TERMINATION OF SERVICE

' 52.065 INSPECTION BY AUTHORIZED OFFICIALS.

(A) (1) *Right of entry of inspector or town's designated agent to any premises.* The inspector and/or other duly authorized representative of the town, after notice to any individual in responsible charge as designated by the person who is an owner, tenant, or otherwise has possession, shall be permitted to enter upon presentation of proper credentials, all premises for the purpose of inspection, observation, measurement, sampling, maintenance and/or testing in compliance with this chapter. Entry shall normally be made during daylight or operating hours or at reasonable times.

(2) While performing the necessary work on any premises referred to above, the inspector or duly authorized representative of the town shall observe all safety rules applicable to the premises established by the user and the user shall be held harmless for injury or death to the town employee, and the town shall indemnify the user against liability claims and demands for personal injury or property damage asserted against the user and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the user to maintain safe conditions as required.

(B) *Right of entry of director, inspector, or designated agent to any easement.* The director, inspector, and/or duly authorized employee of the town shall be permitted to enter, upon presentation of proper credentials, all premises through which the town holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, testing, repair, and maintenance of any portion of the water utility lying within such easement. All subsequent work, if any, within a residence, easement, or right-of-way shall be done in full accordance with terms of the easement pertaining to the premises involved.

(C) (1) Denial of entry to any residence, property, or structure by an owner or resident to an agent of the town whose purpose is to inspect any meter, suspected cross connection, or illegal connection shall be subject to immediate discontinuance of service.

(2) Proper identification shall be provided to the owner or resident upon request.

('80 Code, ' 13.14.010) Penalty, see ' 52.999

' 52.066 TERMINATION OF SERVICE.

The town may terminate or cause to be terminated water service to any premises if a violation of any provision of this chapter is found to exist. This provision is in addition to other statutes, rules, or regulations, authorizing termination of service for delinquency in payment.

('80 Code, ' 13.14.020)

RATES AND CHARGES

and charges are approved and established for the use of and service rendered by the Lowell Water Utility based upon the various costs of providing water service by the utility.

' 52.075 WATER METERS.

(A) *Rate review.* At least every two years hereafter, the Town Council shall engage appropriate consultants to perform a rate review to evaluate the current water rates and charges. The following rates

(B) *Metered rates per month per 1,000 gallons:*

METERED RATES

GALLONS SUPPLIED	RATE
first 5,000	\$9.70
next 10,000	\$9.30
next 20,000	\$8.84
over 35,000	\$7.75

(C) *Minimum charge.* Each water utility user shall pay a minimum charge in accordance with the size of meter installed, for which the user will be entitled to the quantity of water set out in (B) above, as follows:

MINIMUM CHARGE

METER SIZE (in inches)	GALLONS ALLOWED	RATE
5/8"	2,500	\$24.25
1"	4,000	\$38.80
1 1/4"	5,000	\$48.50
1 1/2"	6,500	\$62.45
2"	8,700	\$82.91
3"	14,100	\$133.13
4"	19,600	\$182.16
6"	68,500	\$577.93

Lowell - Public Works

('80 Code, " 13.16.010) (Ord.1985-28, passed 12-9-85; Am. Ord. 1993-23, passed 8-26-93; Am. Ord. 2000-1, passed 2-14-00; Am. Ord. 2008-25, passed 12-8-08; Am. Ord. 2015-28, passed 11-9-15)

' 52.076 FIRE PROTECTION SERVICE.

The metered rates are as follows:

Cross-reference:

Fee schedule, see ' 11.054

Statutory reference:

Authority of municipal water utility to set rates and charges, see IC 8-1.5-3-8

ANNUAL HYDRANT RATES

DESCRIPTION	RATE
private / per hydrant	\$499.22

ANNUAL RATES FOR PRIVATE SPRINKLERS

DESCRIPTION	RATE
4" line	\$210.66
6" line	\$499.22
8" line	\$888.62
10" line	\$1,387.84
12" line	\$1,996.90

PUBLIC FIRE PROTECTION SURCHARGE

METER SIZE (IN INCHES)	MONTHLY SURCHARGE
5/8 - 3/4	\$5.84
1	\$9.35
1-1/4	\$20.45
1-1/2	\$15.19
2	\$20.33
3	\$32.94
4	\$45.80
6	\$160.07
8	\$438.15

('80 Code, ' 13.16.020) (Ord. 1985-28, passed 12-9-85; Am. Ord. 1993-23, passed 8-26-93; Am. Ord. 2000-1, passed 2-14-00; Am. Ord. 2010-08, passed 12-27-10; Am. Ord. 2015-28, passed 11-9-15)

Cross-reference:

Fee schedule, see ' 11.054

' 52.077 MUNICIPAL FOUNTAINS.

The metered rates are determined by the Town Council and shall be as follows:

DESCRIPTION	RATE
annual rate per fountain	\$262.08

('80 Code, ' 13.16.030) (Ord. 1985-28, passed 12-9-85; Am. Ord. 1993-23, passed 8-26-93; Am. Ord. 2000-1, passed 2-14-00; Am. Ord. 2015-28, passed 11-9-15)

Cross-reference:

Fee schedule, see ' 11.054

' 52.078 CONNECTION CHARGES.

(A) A service connection fee shall be collected from each customer, prior to connection to the water system. The connection fee is independent from actual tapping fees. The service connection fee shall be dependent upon size of the service tap.

(B) The following water connection charges are hereby established for the town Water Utility for every new water service connection, and each new charge so established shall be paid in full by the customer prior to the issuance of any building or construction permits for the premises serviced by each connection:

<u>Meter Size</u>	<u>Connection Charge</u>
less than 1@	\$1,000
1@	\$1,140
1½@	\$1,320
2@	\$1,610
4@	\$1,850
6@	\$2,200
8@	\$2,500

('80 Code, ' 13.16.040) (Ord. 1985-28, passed 12-9-85; Am. Ord. 1993-23, passed 8-26-93; Am. Ord. 1999-15, passed 10-25-99; Am. Ord. 2015-29, passed 11-23-15) Penalty, see ' 52.999

Cross-reference:

Fee schedule, see ' 11.054

' 52.079 TAPPING CHARGES AND OTHER FEES.

(A) *Tap-in fees established.* The following tap-in fees are established to recover the costs of labor, materials and the administration necessary for all new service connections and their installation from the main to the curb stop, and the cost of furnishing, installing and supervising a suitable water meter for each new connection.

(B) *Taps made by the town Water Utility.*

(1) The tap fee for all new water taps made and installed by employees of the town Water Utility shall be as follows, and each such fee shall be paid in

full by the customer prior to the issuance of any building or construction permits for the premises serviced by each connection. The short run fee shall apply for all connections where there is no requirement to run a water service connection under any roadway or similar surface, and the long run fee shall apply to each connection where the town is required to run a water service connection under any roadway or similar surface:

<u>Meter/Run Size</u>	<u>Tap Fee</u>
3/4@ short run	\$1,400
3/4@ long run	\$1,875
1@ short run	\$1,600
1@ long run	\$2,100
1 1/2@ short run	\$2,025
1 1/2@ long run	\$2,475
2@ short run	\$2,350
2@ long run	\$2,775

(2) Each customer shall also be responsible for and reimburse the water utility for any additional, extraordinary or special expense or circumstances incurred by the water utility, over and above the tap fees, during the actual installation of each respective tap and connection.

(C) *Taps made by developers.* Where a subdivision development is required to make its own water taps and installation of water service, including the cost of materials, by a licensed contractor under the supervision and direction of the town Water Utility, the following tap fees shall apply:

<u>Meter Size</u>	<u>Tap Fee</u>
1/2@	\$750
1@	\$1,065
1 1/2@	\$1,575
2@	\$1,980

(D) *Tap fees for large meters.* All taps, meters and expenses for water service connections of two inches or larger shall be made by and at the customer's expense under the supervision of, and as directed by, the Water Utility, and the meter and all specialty fittings shall be supplied to the customer by the Water Utility at the customer's expense. The following tap

fees shall apply to all connections of two inches or larger to help defer the administrative, supervisory and other costs incurred by the Water Utility:

<u>Meter Size</u>	<u>Tap Fee</u>
2@	actual costs incurred by utility
3@	actual costs incurred by utility
4@	actual costs incurred by utility
6@	actual costs incurred by utility
8@	actual costs incurred by utility

(E) *Other service fees and requirements.*

(1) A fee of \$75 shall be assessed for each additional water inspection.

(2) A fee for each service call made outside regular business hours is hereby established in an amount equal to the cost of time, labor and material as computed by the Water Superintendent for each service call.

(3) A fee of \$20 for each water service shut-off or disconnection is hereby established, and a fee of \$50 for each reconnection due to non-payment or resealing.

(4) All service connections and taps not installed by the Water Utility shall be made by a plumber licensed by the State of Indiana.

(F) *Replacement-repair permit fees.*

(a) A permit shall be applied for through the Community Development Department for the replacement or repair of any existing connection and no permit issued for such work shall become effective until the installation or repair is inspected and completed to the satisfaction of the superintendent.

(b) The superintendent shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection before any underground portion of the replacement connection or repair is covered.

(c) Each applicant shall pay the following fees to the water utility for each replacement or repair of an existing sewer connection.

<i>Description</i>	<i>Fee</i>
Permit fee- includes one inspection	\$50
Each additional inspection	\$35

('80 Code, ' 13.16.040) (Ord. 1985-28, passed 12-9-85; Am. Ord. 1993-23, passed 8-26-93; Am. Ord. 1999-15, passed 10-25-99; Am. Ord. 2007-09, passed 4-23-07; Am. Ord. 2015-29, passed 11-23-15) Penalty, see ' 52.999

Cross-reference:

Fee schedule, see ' 11.054

' 52.080 COLLECTION ON DEFERRED PAYMENT CHARGE.

All bills for water service not paid within 15 days of their due date shall be subject to a collection charge of 10% on the first \$3, and 3% on the remaining unpaid balance per month.

('80 Code, ' 13.16.050) (Ord. 1985-28, passed 12-9-85; Am. Ord. 1993-23, passed 8-26-93; Am. Ord. 1999-15, passed 10-25-99)

Cross-reference:

Fee schedule, see ' 11.054

' 52.081 TEMPORARY USERS.

Water furnished to temporary users and contractors shall be charged on the basis of quantity rates as estimated by the Water Utility Superintendent. For residential contractors, a \$30 non-refundable fee payable to the water utility is required. For commercial contractors needing temporary service where a meter cannot be installed, the fee shall be determined by the town's administrative authority dependent upon the size and duration of the construction project.

('80 Code, ' 13.16.060) (Ord. 1985-28, passed 12-9-95; Am. Ord. 1993-23, passed 8-26-93)

Cross-reference:

Fee schedule, see ' 11.054

' 52.082 ESTIMATION OF CHARGE WHEN NECESSARY.

If, for any reason, it is not possible to obtain an accurate reading from any water/sewage meter which has been installed by or on behalf of the town, the town shall estimate the charge to be billed to the utilities customer by taking the average of the billings for the three months immediately preceding that month. At each time as the town is able to obtain an accurate reading, it shall bill the customer for the deficiency if the estimated payment was an underpayment, or credit the account if it was overpaid.

('80 Code, ' 13.16.070) (Ord. 1982-28, passed 12-28-82)

ACCOUNT ADJUSTMENTS

' 52.090 UTILITY ACCOUNT ADJUSTMENT POLICY.

(A) *Water account adjustment policy (maximum \$400).*

(1) To qualify for an adjustment, the billed consumption must be at least 100% greater than the

average of the three month block during the previous year, taking the previous two months and the present month as the reference for the average.

(2) The qualified billing, (water and/or sewer) shall be adjusted to the average consumption of a three month block during the previous year, taking the previous two months and the present month as the reference for the average.

(3) One adjustment, up to a maximum of \$400, for high consumption will be allowed per account during a two year period. If an incident of increased consumption due to malfunctioning fixtures or leaks occurs again within the designated two-year period, there shall be no further adjustment.

(4) A service fee of \$25 shall be added to the adjusted billing (water and/or sewer) to defer the administrative costs of administering this policy.

(5) A record of adjustments will be reviewed by the Director of Public Works and the appropriate Department Head(s) before any adjustment will be granted. Should the administrative authority reviewing the adjustment claim decide that abnormalities or problems exist with the validity of the claim, the adjustment will not be allowed and the bill shall be due in full.

(6) The filling of pools, watering of grass, or other similar use or wasting of water shall not be grounds for requesting or receiving an adjustment.

(B) *Water meter testing policy.*

(1) The Water Utility will check a customer's meter one time, at no charge, during any period of two years.

(2) If a meter is tested at the request of the customer and found to be functioning within the current A.W.A. accuracy standards, the customer shall be required to pay a service charge for the utilities time for each additional testing during the two- year period. Should the meter be found to be functioning outside the current A.W.A. accuracy

standards, the utility shall credit the amount of any overpayment as required by state statute. If the meter is registering less than the actual amount being consumed, the utility reserves the right to collect the underpayment due the utility.

(Ord. 2002-07, passed 7-8-02; Am. Ord. 2005-29, passed 10-10-05)

WATER CONSERVATION

' 52.100 WATER CONSERVATION.

(A) It has come to the attention of the Town Council that steps should be taken in order to ensure that a water shortage is not created or exacerbated.

(B) To ensure that a water shortage is not created or exacerbated, and to relieve stresses on water sources, the Town Council deems it advisable to limit some of the uses of water by residents.

(C) Therefore, the Town Council ordains that, except as provided in ' 52.101:

(1) All customers of the Water Utility with street addresses ending in an even number (i.e., 0, 2, 4, 6, 8) shall only be permitted to water lawns, wash motor vehicles, or fill swimming pools on even-numbered dates of the month; and

(2) All customers of the Water Utility with street addresses ending in an odd number (i.e., 1, 3, 5, 7, 9) shall only be permitted to water lawns, wash motor vehicles, or fill swimming pools on odd-numbered dates of the month.

(Ord. 2014-08, passed 6-9-14) Penalty, see ' 52.999

' 52.101 EXEMPTIONS.

(A) Notwithstanding anything herein to the contrary, the following are exempt from

the water restrictions set forth herein:

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(1) Homeowners who have newly planted sod or seeded lawns may water the newly planted lawn for four weeks; and

(2) Retail businesses that primarily offer car washing services to patrons.

(B) The Public Works Director and the Building Director are empowered to grant exceptions from the restrictions contained in ' 52.100, upon application by the resident and proof of extenuating circumstances.

(Ord. 2014-08, passed 6-9-14)

town=s distribution system and if it is found that a cross connection, with the potential for contamination did occur, the person, firm, or corporation shall be held responsible for any and all damage from that cross connection. The person, firm, or company shall pay all damages and expenses incurred by the town to the distribution system and any and all expenses incurred due to contamination from the cross connection.

('80 Code, ' 13.08.040)

' 52.999 PENALTY.

(A) Any person, firm, or corporation violating any of the emergency controls provisions promulgated under ' 52.007 shall be subject to the following penalties:

(1) *First offense:* Written warning.

(2) *Second offense:* This fine amount has been set by Town Council and shall be subject to amendment from time to time. The current fine is available for public inspection at the town offices during normal business hours.

(3) *Third offense:* Discontinuance of service, either permanent or temporary and/or additional fines as determined by the Town Council. ('80 Code, ' 13.04.060)

(B) In addition to any other penalties contained in this chapter, an unauthorized person, firm, or company shall pay for the quantity of water taken plus a fine to be set by the town Council. As described, the fine shall be in any amount deemed reasonable by the town Council. Should the quantity be an estimated amount as described in ' 52.025, the quantity shall be multiplied by two times the estimated amount.

(C) Any person, firm, or company found to have taken water illegally from any connection to the

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Cross-reference:

Department of Storm Water Management, see " 34.45 et seq.
Storm Water Detention, see Ch. 152
Subdivision regulations, drainage, see ' 154.058

SUBCHAPTER 100: ILLEGAL DISCHARGE DETECTION AND ELIMINATION PROGRAM

GENERAL PROVISIONS

' 53.101 PURPOSE AND INTENT.

The purpose and intent of this subchapter is to ensure the health, safety and general welfare of the inhabitants of the Town of Lowell, Indiana, and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the National Pollutant Discharge

Elimination System (NPDES) permit process by reducing pollutants in storm water discharges and by prohibiting non-storm water discharges to the storm drain system.

(Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.102 INCORPORATION BY REFERENCE.

The following documents are incorporated by reference as a part of this subchapter and shall include any later amendments, repeals, and replacements to those regulations as the same are published in the Indiana Administrative Code with the effective dates as fixed herein.

(A) The requirements found in Rule 327 IAC 15-13-1 through IAC 15-13-22.

(B) The requirements found in Rule 327 IAC 15-5-1 through 15-5-12.

(Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.103 DEFINITIONS.

For purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPROVED PLANS. Plans approved by the storm water utility according to a permit and plan review by the storm water utility which will govern all improvements made within the town that require storm water facilities or changes or alterations to existing storm water facilities.

AUTHORIZED ENFORCEMENT AGENCY. The Lowell Storm Water Management Board (see ' 34.45), through its Lowell MS4 Operator or his or her designees.

BEST MANAGEMENT PRACTICES (BMPs).

Any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water runoff. The term includes schedules of activities, prohibitions of practice, treatment, requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques, and other management practices.

BOARD. The Town of Lowell Storm Water Management Board of Directors established pursuant to IC 8-1.5-5 under ' 34.45 and ' 34.46 of this code.

CLEAN WATER ACT. The Federal Water Pollution Control Act, 33 U.S.C. ' 1251 et seq.

CODE. Town of Lowell Municipal Code.

CONTIGUITY. An entity=s proximity to a designated MS4 area in such a way that it allows for direct discharges of storm water runoff into the regulated MS4 conveyance.

CONVEYANCE. Any structural process for transferring storm water between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

CONSTRUCTION ACTIVITY. Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. These activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

COUNTY REGULATED DRAIN. Part of the storm water conveyance system under the jurisdiction of the Lake County Drainage Board, including certain ditches, tiles, and sewers.

DESIGN STORM. A rainfall event of specified size and return frequency that is used to calculate the runoff volume from an area and the capacity and peak discharge rate of a BMP.

DETENTION. The temporary storage of storm water runoff in a basin, pond or other structure to control the peak discharge rate to the MS4 by holding the storm water for a period of time and controlling the outflow.

DIRECTOR. A person appointed by the Town Council to undertake the tasks and responsibilities set forth by this chapter, who shall serve at the discretion of the Council.

DISPOSAL. The discharge, deposit, injection, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

DRAIN. Any separated storm sewer, tile, ditch, stream, swale or other storm water conveyance, channel or conduit.

EXEMPT DRAIN. Drains that are regulated by the Lake County Drainage Board.

GARBAGE. All animal solid, vegetable solid, and semi-solid wastes resulting from the processing, handling, preparation, cooking, serving or consumption of food or food materials.

HAZARDOUS WASTE. 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.

ILLICIT CONNECTION. 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 conveyance which allows any non-storm water discharge including sewage, process wastewater, effluent, and wash water to enter the

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storm drain system and any connections to the storm drain system from indoor drains, washing machines, bathtubs, and sinks, regardless of whether the drain or connection had been previously allowed, permitted, or approved by any enforcement agency.

(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.

ILLICIT DISCHARGE. Any discharge to an MS4 conveyance that is not composed entirely of storm water, except naturally occurring floatables, such as leaves or tree limbs.

IMPERVIOUS AREA. Real property that has been paved and/or covered with buildings and impervious materials which include, but are not limited to, concrete, asphalt, rooftop, blacktop and compacted gravel, such that natural infiltration of water into the soil is prevented.

INDUSTRIAL ACTIVITY. An activity subject to NPDES industrial permits as defined in 40 C.F.R. pt. 122.26(b)(14).

INFILTRATION. A process by which storm water percolates into the ground.

LOT/PARCEL. A part or portion of land having a distinct legal description that is formally set forth in a conveyance instrument.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, swales or storm drains):

(1) Owned or operated by a city, town, borough, county, parish, district, association or other public body (created by or pursuant to State law);

(2) Designed or used for collecting, conveying or otherwise managing or treating storm water;

(3) Which is not a combined sewer; and

(4) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. A permit issued by the EPA or the Indiana Department of Environmental Management 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.

NON-STORM WATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of storm water.

PEAK DISCHARGE. The maximum rate of flow of water passing a given point during or after a rainfall event.

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

POLLUTANT. Anything which causes or contributes to pollution. **POLLUTANTS** may include, but are not limited to: paints, varnishes, solvents; oil and automotive fluids; non-hazardous liquid and solid wastes; yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles or accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, effluent, fecal coliform, E. coli, 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.

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

PROPERTY CLASS CODE. A three-digit land use code number generated from the Lake County Assessors offices used to differentiate properties= use and primary purpose. For purposes of the town's storm water utility user fee, this property class code will be used to determine each parcel's monthly user fee.

PUBLIC STORM WATER FACILITIES. The various storm water and drainage works under the control and/or ownership of the town, county, state or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, swales or other structural components and equipment designed to transport, move, hold, treat or regulate storm water.

RETENTION. The holding of storm water runoff in a constructed basin or pod or in a natural body of water without release except by means of evaporation, infiltration or emergency bypass.

STORM DRAINAGE SYSTEM. Publicly owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention, detention and other drainage structures.

STORM SEWER. A sewer designed or intended to convey only storm water, surface runoff and drainage, and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water. The portion of a sewer intended to carry storm water only, which begins at the grating or opening where water enters said sewer, through the sewer and any other conduits to the outlet structure where water enters a stream, lake, watercourse, ditch or combined sewer.

STORM WATER. Any surface flow, runoff, and

drainage consisting entirely of water from any form of

natural precipitation, and resulting from that precipitation.

STORM WATER POLLUTION PREVENTION PLAN. A document which describes the best management practices (BMPs) and activities to be implemented by a person or business to identify the source of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters.

STORM WATER SYSTEM. All constructed facilities, structures and watercourses under the ownership and/or control of the town and/or the storm water utility, used for collecting, storing and conducting storm water to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, swales, retention and detention basins and pumping stations; and excluding therefrom, any part of the system of drains and watercourses under the jurisdiction of the Lake County Drainage Board or under ownership other than the town.

STORM WATER UTILITY USER FEE. A charge imposed on users of the town's public storm water facilities and storm water system.

STORM WATER UTILITY CUSTOMER/USER. The owner of a lot or parcel of land located within the town.

SUBDIVISION GROUP. All of the parcels of land within a platted development.

TLSWMD. Town of Lowell Storm Water Management Department.

WASTEWATER. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.
(Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

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' 53.104 APPLICABILITY.

This subchapter shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by the authorized enforcement agency.
(Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.105 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this subchapter are minimum standards; therefore, this subchapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the State of Indiana by that person. This subchapter shall not create liability on the part of Town of Lowell, or any agent or employee thereof for any damages that result from any discharger's reliance on this subchapter or any administrative decision lawfully made hereunder.
(Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.106 STORM WATER MANAGEMENT USER FEE.

(A) Per Ordinance 2017-19 adopted October 23, 2017, there is established and enacted a town storm water management user fee which shall be assessed

against each and every improved parcel of real estate within the boundaries of the town based on the schedule below:

<i>Property Class Codes</i>	<i>Description</i>	<i>Monthly Fee</i>
100 - 199	Agriculture	\$3.90
300	Industrial vacant land	\$3.90
330 - 399	Industrial	\$49.00
400	Commercial vacant land	\$3.90
401	Commercial apartment 4 - 19 units	\$21.00
402 - 499	All commercial including apartment buildings over 19 units	\$49.00
500 - 509	Residential vacant land	\$1.60
510 - 545	Residential single family, duplex, and three unit including excess acreage	\$7.00
550	Residential condo	\$7.00
598	Residential leased land	\$7.00
599	Other residential structure	\$7.00
650	Board of Education	\$27.00
600, 610, 620, 621, 622, 630, 640, 645, 660, 661, 662, 665, 669	Federal, state, county, municipal and other exempt properties	\$9.00
680, 685, 686	Charitable, religious and churches	\$21.00

690	Cemetery	\$3.90
699	Other exempt properties	\$7.00
820	Heat and power utilities	\$49.00
830 - 841	Railroad and pipeline	\$3.90
850 - 871	Sewage, phone and water utilities	\$49.00

(B) The storm water management user fee shall be due on the same payment date as the due date on the Lake County Treasurer=s tax bill. Delinquent storm water management user fees may be collected in any manner authorized by law. In pursuing the collection of delinquent storm water management user fees, the town shall be permitted to collect its costs of collection, including reasonable attorney=s fees.

(C) The Clerk-Treasurer is authorized to establish a Storm Water Management Fund. All revenue generated by imposition of the storm water management user fee shall be deposited in said fund, and the Clerk-Treasurer shall be responsible for maintaining the appropriate ledgers and accounts associated with the creation of the fund.

(D) The Board of Directors of the Storm Water Management Board shall annually submit to the Town Council a proposed budget for the expenditure of the storm water management user fee which shall be reviewed and approved by the Town Council in the same manner as other town budgets.

(E) Upon approval of the submitted budget, the Board of Directors of the Storm Water Management Board shall be authorized and empowered to spend the funds upon proper proof and approval of claims.

(F) The Board of Directors of the Storm Water Management Board shall implement policies and procedures governing the expenditure of the storm water management user fee, so as to remain in full compliance with IC 8-1.5-5-1 et seq., and any and all other applicable statutory requirements.

(G) *Storm Water Utility Improvement Fund.*

(1) *Establishment.* A Storm Water Utility Improvement Fund is hereby established for the purpose of receiving annual transfers.

(2) *Deposit of funds.* At the end of each calendar year, the Clerk-Treasurer shall determine a six-month average for operating expenses, and transfer any excess funds to the Storm Water Utility Improvement Fund.

(3) *Use of funds.* The Storm Water Management Board and/or the Town Council shall use the funds for specific capital improvements and/or projects appropriated in the same manner as other town budgets.

(Ord. 2012-24, passed 12-10-12; Am. Ord. 2014-29, passed 12-22-14; Am. Ord. 2019-10, passed 5-28-19)

' 53.107 EXEMPT PROPERTIES.

Federal, state, town and county roadways. Streets, roads and highways owned by federal, state, town and/or county authorities shall be exempt from the storm water utility user fee. They form an integral part of the storm water system. These primary elements of the drainage system yield community-wide benefits and are installed to service the general public=s interests.

(Ord. 2019-10, passed 5-28-19)

' 53.108 APPEALS OF FEE DETERMINATIONS.

If a storm water utility customer/user determines that the user fee assigned to said user=s real property is incorrect due to an error in the properties= classification code, said storm water utility customer/user shall have the right to appeal.

(A) The storm water utility customer/user shall complete a petition to appeal storm water assessment form (Apetition@), copies of which are available at the storm water utility=s administrative office, which, after being fully completed, shall be returned to the Storm Water Utility Director together with any documentation supporting the appeal.

(B) The Director shall consider the grounds for the appeal and, upon review thereof, shall render a written determination to the Board and the storm water utility customer/user that either the original user fee determination should be affirmed or the storm water utility user fee should be adjusted on the grounds stated in the petition. The Director=s determination shall be made within 20 days of the filing of a petition to appeal.

(C) Said determination shall be forwarded to the storm water utility customer/user by certified mail, return receipt requested. The storm water utility customer/user shall then have 30 days from the date of mailing of said determination to request reconsideration of the Director=s decision by the Board. Any additional facts concerning the appeal shall be submitted in writing to the Board, along with a copy of the original petition and supporting documents. The Director shall submit a written report to the Board regarding the reasons for the Director=s determination in the case, along with any documents used in ruling on the appeal.

(D) Thereafter, the Board shall review all documentation and, if requested in writing by the storm water utility customer/user in its appeal petition, conduct a hearing to determine and resolve the appeal. Such hearing will be scheduled by the Board and the storm water utility customer/user will be notified by certified mail of the date of such hearing, which notice shall be received by the storm water utility customer/user at least seven days prior to the date of such hearing. Whether or not a hearing is held, a written opinion shall be rendered by the Board within 45 days after the hearing or submission of documentation if no hearing is conducted. The written opinion of the Board shall constitute the final determination of the town. The hearing before the Board shall be electronically recorded and, if requested by the storm water utility customer/user, a transcript of the hearing shall be provided to the storm water utility customer/user. The storm water utility customer/user will be charged a cost per page as from time to time determined by the Board in accordance with applicable law as amended from time to time.

(E) A storm water utility customer/user aggrieved by the final Board determination shall have the right to judicial review of such determination in accordance with applicable Indiana law. Any judicial review must be filed with a court of competent jurisdiction within 30 days of the date of the Board's determination.

(F) If a reduction is ordered by the Board or any court of competent jurisdiction, the storm water utility customer/user shall be credited accordingly for any overpayment made from the date of the petition.

(G) Dispute or appeal of a user fee determination shall not be a valid reason for non-payment of the originally assessed storm water utility user fee by the storm water utility customer/user. The Board will refund to the user any overpayments made on user fee assessments that are reduced via the appeal process. (Ord. 2019-10, passed 5-28-19)

PROHIBITIONS

' 53.115 ILLEGAL DISCHARGES.

(A) No person shall discharge or cause to be discharged into the storm drainage system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

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

- (1) Waterline flushing or other potable water sources;
- (2) Landscape irrigation or lawn watering;
- (3) Diverted stream flows;
- (4) Rising ground water or ground water infiltration to storm drains;

(5) Uncontaminated pumped ground water;

(6) Foundation or footing drains (not including active ground water dewatering systems), and crawl space pumps;

(7) Air conditioning condensation;

(8) Springs;

(9) Non-commercial washing of vehicles;

(10) Natural riparian habitat or wetland flows;

(11) Dechlorinated swimming pools to less than 0.05 milligrams per liter of chlorinated residual;

(12) Fire fighting activities;

(13) Any other water source not containing pollutants;

(14) Dye testing discharge upon verbal notification to the authorized enforcement agency prior to the time of the test;

(15) Any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the 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;

(16) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety. (Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19) Penalty, see ' 53.199

proper waste receptacles for the purpose of collection are exempted from this prohibition. (Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19) Penalty, see ' 53.199

' 53.116 ILLICIT CONNECTIONS.

(A) The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited.

(B) 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.

(C) A person is considered to be in violation of this subchapter if the person connects a line conveying sewage, effluent, or biologically contaminated water to the storm drainage system, or allows such a connection to continue.

(D) A person is considered to be in violation of this subchapter if the person reinstates a suspended connection to the storm drainage system without prior approval of the authorized enforcement agency. (Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19) Penalty, see ' 53.199

' 53.117 WASTE DISPOSAL.

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the State of Indiana, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in

REGULATION OF DISCHARGES

' 53.125 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of the permit. Proof of compliance with the permit may be required in a form acceptable to the Lowell MS4 Operator prior to allowing discharges to the MS4. (Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19) Penalty, see ' 53.199

' 53.126 MONITORING OF DISCHARGES.

(A) The Lowell MS4 Operator shall be permitted to enter and inspect facilities subject to regulation under this subchapter as often as necessary to determine compliance with this subchapter.

(B) Persons shall allow the Lowell MS4 Operator ready access to all parts of the premises for the purpose of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state law.

(C) The Lowell MS4 Operator shall have the right to set up on any permitted facility such devices as necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility=s storm water discharge.

(D) The Lowell MS4 Operator has the right to require the discharger to install monitoring equipment.

as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to their accuracy

(E) Any temporary or permanent obstruction to the facility being inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Lowell MS4 Operator and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(F) Unreasonable delay and/or denial of access to a permitted facility are violations of a storm water discharge permit and this subchapter. The Lowell MS4 Operator is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19) Penalty, see ' 53.199

' 53.127 REQUIREMENTS TO PREVENT, CONTROL AND REDUCE STORM WATER POLLUTANTS.

The Lowell MS4 Operator will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drainage system, or waters of the State of Indiana. The owner or operator shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drainage system or watercourses through the use of these structural and non-structural BMPs. 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 non-structural BMPs to prevent the further discharge of pollutants to the storm drainage system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed

compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19) Penalty, see ' 53.199

' 53.128 WATERCOURSE PROTECTION.

Every person owning property within a watershed, through which a watercourse passes, or the 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.

(Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19) Penalty, see ' 53.199

' 53.129 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drainage system, or water of the State of Indiana, that person shall take all necessary steps to ensure the discovery, containment, and clean up of the 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 non-hazardous materials, the person shall notify the authorized enforcement agency in person, by phone, or by facsimile no later than the next business day, and written notice given no later than three business days of initial notification. The owner or operator shall also retain an on-site written record, for three years, of the discharge and the actions taken to prevent its recurrence.

(Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19) Penalty, see ' 53.199

ADMINISTRATION AND ENFORCEMENT

' 53.140 PROGRAM ENFORCEMENT.

(A) *Suspension of MS4 access.*

(1) In the event of an emergency, the Lowell MS4 Operator may, without prior notice, suspend MS4 discharge access to a person when the suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to public health, the environment, the MS4, or the waters of the State of Indiana. 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 the danger to the public, damage to the MS4 or waters of the State of Indiana.

(2) Any person discharging to the MS4 in violation of this subchapter may have their MS4 access terminated if the 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.

(B) *Notice of violation.*

(1) Whenever the Lowell MS4 Operator finds that a person has violated any prohibition or failed to meet any requirements of this subchapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. The 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 storm water pollution or contamination hazards and the restoration of any affected property;

(e) Payment of a fine to cover all attorney, administrative, sampling and remediation costs;

(f) The implementation of source control or treatment BMPs.

(2) If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which the remediation or restoration must be completed. The notice shall advise that should the violator fail to remediate or restore within the established deadline, the work will be done by a contractor and all the expenses shall be charged to the violator.

(C) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal, in writing, the determination of the authorized enforcement agency. The notice of appeal must be received within 15 days from the date of the notice of violation. The Lowell Storm Water Management Board shall hold a hearing within 15 days from the date of receipt of the notice of appeal. The decision from the hearing shall be final.

(D) *Enforcement measures after appeal.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation or deadline set during the appeal hearing, the authorized enforcement agency shall enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the authorized enforcement agency or its designated contractor to enter upon the premises for the purposes set forth above.

(E) *Cost of abatement.* Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of the abatement, including administrative costs. The property owner may file a

written protest objecting to the amount of the assessment within 15 days of notification. If the amount due is not paid within 30 days or by the date expressed by the authorized enforcement agency, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Auditor so that the Auditor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the tax collector shall include the amount of the assessment on the bill for taxes levied against the parcel of land. (Ord. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.199 PENALTY.

(A) *Injunctive relief.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this subchapter. If a person has violated or continues to violate the provisions of this subchapter, the authorized enforcement agency may petition the courts 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.

(B) *Compensatory action.* In lieu of enforcement proceedings, penalties, and remedies authorized by this subchapter, the authorized enforcement agency may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, and the like.

(C) *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 subchapter, is a threat to public health, safety and welfare, and is deemed a nuisance, and may be summarily abated or restored at the violator=s expenses, and/or civil action to abate, enjoin, or otherwise compel the cessation of the nuisance may be taken.

(D) *Remedies not exclusive.* The remedies listed in this section 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. 2005-02, passed 1-24-05; Am. Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

Cross-reference:

Nuisances, see Ch. 96

SUBCHAPTER 200: NEW DEVELOPMENT AND REDEVELOPMENT

' 53.201 GENERAL PROVISIONS.

(A) *Findings of fact.* It is hereby determined that land development projects increase storm water runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposit; and contribute to increased quantities of water-borne pollutants; and storm water runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of storm water runoff from development sites.

(B) *Purpose.* This subchapter is intended to set standards to regulate the quantity and quality of storm water runoff when land use changes to a use that may result in increased imperviousness. These minimum requirements are established to protect and safeguard the general health, safety and welfare of the public residing in watersheds within this jurisdiction. It shall be the policy of the town and the Lowell Storm Water Management Board that these minimum requirements shall be required for any new development, redevelopment and new construction located within the town not exempt under this subchapter. This subchapter seeks to meet this purpose through the following objectives:

(1) Minimize increases in storm water runoff from any development in order to reduce flooding, siltation, increases in stream temperature and stream bank erosion, and maintain the integrity of stream channels;

(2) Minimize increases in non-point source pollution caused by storm water runoff from development that would otherwise degrade local water quality;

(3) Reduce storm water runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through storm water management controls; and to ensure that these management controls are properly maintained and pose no threat to public safety.

(C) *Applicability.* The performance standards herein must be met for all new development areas that disturb one or more acres of land; or 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; and all redevelopment areas that disturb 10,000 square feet of surface area or more within the town. The following activities may be exempt from these storm water performance criteria:

(1) Developments that do not disturb more than one acre of land, provided they are not part of a larger common development plan; or

(2) Any logging and agricultural activity; or

(3) Additions or modifications to existing single-family structures; or

(4) Repairs to any storm water treatment practice deemed necessary by the administering authority.

(Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.202 DEFINITIONS.

For purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTERING AUTHORITY. The Town of Lowell Storm Water Management Board through the MS4 Operator, or designee, having been designated by the Town Council to administer this subchapter.

APPLICANT. A property owner or agent of a property owner who has filed an application for a storm water management permit.

AVERAGE ANNUAL RAINFALL. A calendar year of precipitation, excluding snow, that is considered typical.

BEST MANAGEMENT PRACTICE (BMP). Any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water runoff. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques, and other management practices.

BUILDING. Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal or property, and occupying more than 100 square feet of area.

BUSINESS DAY. A day the office of the MS4 Operator is routinely and customarily open for business.

CEASE AND DESIST ORDER. A courtBissued order to halt land-disturbing construction activity that is being conducted without the required permit.

CHANNEL. A natural or artificial watercourse with a definite bed and banks that conduct continuously or periodically flowing water.

CLEARING. Any activity that removes the vegetative surface cover.

CONNECTED IMPERVIOUSNESS. An impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

CONSTRUCTION ACTIVITY. Land-disturbing activities associated with the construction of infrastructure or structures. The term **CONSTRUCTION ACTIVITY** does not include routine ditch or road maintenance, or minor landscaping projects.

CONSTRUCTION PROJECT SITE. The physical location(s) or legal boundaries within which a construction activity or a series of construction activities is planned to be or is being accomplished.

CONSTRUCTION SITE ACCESS. A stabilized stone surface at all points of construction-related egress from a project site, planned and installed in accordance with specification from an approved reference manual, and maintained throughout the period of land-disturbing activities for the purpose of capturing and detaining sediment carried by tires, tracks, or other surface-contact components of vehicles, earthmoving equipment, or material and personnel transport conveyances.

DEDICATION. The deliberate appropriation of property by its owner for general public use.

DEPARTMENT. The Indiana Department of Environmental Management (IDEM).

DESIGN STORM. A hypothetical, discrete rainstorm, characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.

DETENTION. The temporary storage of storm runoff in a storm water management practice, with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

DETENTION FACILITY. A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff, and gradual release of stored water at controlled rates.

DEVELOPER. A project site owner or person financially responsible for construction activity; or an owner of property who sells, leases, or offers for sale

or lease, any lot(s) in a subdivision or larger common plan of development or sale.

DIRECTOR. The chief executive officer of IDEM or his or her designee.

DRAINAGE EASEMENT. A legal right granted by a landowner to a grantee, allowing the use of private land for storm water management purposes.

DRAINAGE WAY. Any channel that conveys surface storm water runoff.

EFFECTIVE INFILTRATION AREA. The area of the infiltration system that is used to infiltrate runoff, which does not include the area used for site access, berms or pretreatment.

EROSION. The process by which the land's surface is worn away by the action of wind, water, ice or gravity.

EROSION AND SEDIMENT CONTROL PLAN. A set of plans prepared by or under the direction of a licensed professional engineer, licensed land surveyor, or certified professional in storm water quality (CPSWQ), indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

EROSION AND SEDIMENT CONTROL SYSTEM. Appropriate control measures combined to prevent or minimize the wearing away of soil, sediment and rock fragments by water, wind or ice, and to intercept detached or suspended particles to prevent their discharge from or within a project site.

FEE IN LIEU. A payment of money in place of meeting all or part of the storm water performance standards required by this subchapter.

FINAL STABILIZATION. The establishment of permanent vegetative cover or the application of a permanent, non-erosive material to areas where all land-disturbing activities have been completed, and no additional land-disturbing activities are planned under the current plan.

FINANCIAL GUARANTEE. A performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the town by the responsible party to assure that requirements of the article are carried out in compliance with the storm water management plan.

GRADING. Excavation or fill of material, including the resulting conditions thereof.

HOTSPUR. An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.

HYDROLOGIC SOIL GROUP (HSG). A Natural Resource Conservation Service classification system, in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

IMPERVIOUS SURFACE. An area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious.

INDIVIDUAL BUILDING LOT. A single parcel or land in a multi-parcel development.

INDUSTRIAL STORM WATER PERMIT. A National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries, which regulates the pollutant levels associated with industrial storm water discharges or specifies on-site pollution control strategies.

INBFILL AREA. An undeveloped area of land located within existing development.

INFILTRATION. The entry of precipitation or runoff into or through the soil.

INFILTRATION SYSTEM. A device or practice, such as a basin, trench, rain garden or swale, designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns, or minimal infiltration from practices, such as swales or roadside channels, designed for conveyance and pollutant removal only.

JURISDICTIONAL WETLAND. An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

LAND-DISTURBING CONSTRUCTION ACTIVITY. Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting and grading.

LANDOWNER. The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT. A legally recorded document that acts as a property deed restriction, and provides for long-term maintenance of storm water management practices.

MEASURABLE STORM EVENT. A precipitation event that results in a total measured accumulation of precipitation equal to or greater than one-half inch of rainfall.

MAXIMUM EXTENT PRACTICABLE (MEP). A level of implementing best management practices that takes into account the best available technology, cost effectiveness and other competing issues, such as human safety and welfare, endangered and threatened resources, historic properties and geographic features.

MS4 AREA. Within this subchapter, the corporate limits of the town permitted under an NPDES permit regulated by 327 IAC 15-13.

MS4 OPERATOR. The person locally responsible for development, implementation or enforcement of the storm water quality management plan (SWQMP) for the town, as regulated under 327 IAC 15-13, or an authorized representative thereof.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). A system of storm water conveyances either owned or operated or regulated by a governmental agency that IDEM has designated as responsible to eliminate or minimize pollutant loadings of the storm water entering waters of the state.

NEW DEVELOPMENT. Development resulting from the conversion of previously undeveloped land or agricultural land uses.

NON-POINT SOURCE POLLUTION. Pollution from any source other than from any discernible, confined and discrete conveyances, including but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

NOTICE OF PLAN APPROVAL (NPA). A notification from the MS4 Operator to the project site owner that the construction plan for a project site has been reviewed and approved by the MS4 Operator. The project site owner must insert the NPA with the notice of intent sent to the Director of IDEM at least 48 hours prior to initiating land-disturbing activities at the construction project site.

NPDES. The National Pollutant Discharge Elimination System, a program administered by IDEM to reduce or eliminate pollutant loadings into public waters.

OFF-SITE FACILITY. A storm water management measure located outside the subject property boundary described in the permit application for land development activity.

ON-SITE FACILITY. A storm water management measure located within the subject property boundary described in the permit application for land development activity.

PEAK DISCHARGE. The maximum rate of flow from a point of storm water discharge during or immediately following a storm event, usually in reference to a specific return period or Aesign storm@.

PERCENT FINES. The percentage of a given sample of soil that passes through a # 200 sieve.

Note to users: Percent fines can be determined using the *American Society for Testing and Materials, Volume 04.02, ATest Method C117-95 Standard Test Method for Materials Finer than 75B_m (No. 200) Sieve in Material Aggregates by Washing@*. Copies can be obtained by contacting the American Society for Testing and Materials, 100 Barr Harbor Drive, Conshohocken, PA 19428-2959, by phoning 610-832-9585, or online at: "<http://www.astm.org>".

PERIMETER CONTROL. A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

PERMANENT STABILIZATION. The establishment, at a uniform minimum of 70%, across the disturbed areas of vegetative cover or permanent non-erosive material that ensures the resistance of the underlying soil to erosion, sliding or other movement.

PERVIOUS SURFACE. An area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

PHASING OF CONSTRUCTION. Sequential development of smaller portions of a large project site, stabilizing each portion before initiating land-disturbing activities on the next portion, to minimize exposure of land to erosion.

POST-CONSTRUCTION SITE. A site following the completion of land-disturbing construction activity and final site stabilization.

PREBDEVELOPMENT CONDITION. The extent and distribution of land cover types present before the initiation of land-disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

PROTECTIVE AREA. An area of land that commences at the delineated boundary of lakes, streams, rivers or wetlands, and that is the greatest of the following widths, as measured horizontally from the boundary to the closest impervious surface. However, in this definition, **PROTECTIVE AREA** does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location. Six categories of protective area have been identified:

(1) For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest: 75 feet.

(2) For perennial and intermittent streams identified on a United States geological survey 7.5B minute series topographic map, or a county soil survey map, whichever is more current: 50 feet.

(3) For lakes: 50 feet.

(4) For highly susceptible wetlands: 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

(5) For less susceptible wetlands: 10% of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands

include degraded wetlands dominated by invasive species such as reed canary grass.

(6) For concentrated flow channels with drainage areas greater than 130 acres: 10 feet.

RECHARGE. The replenishment of underground water reserves.

REDEVELOPMENT. Any construction, alteration or improvement where structures and/or impervious surfaces are removed and/or replaced.

RESPONSIBLE PERSON. Any person who is responsible for or permits any violation of this subchapter.

RUNOFF. An accumulation of storm water flow that is moving across the surface of the earth as sheet flow or concentrated flow in natural surface watercourses, drains or waterways.

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

SEDIMENT CONTROL. Measures that prevent eroded sediment from leaving the site.

SEDIMENTATION. The settling and accumulation of unconsolidated sediment carried by storm water runoff.

SITE. A parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

SITE DEVELOPMENT PERMIT. A permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.

START OF CONSTRUCTION. The first land-disturbing activity associated with a development,

including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STOP WORK ORDER. An order issued by the MS4 Operator, or designee, that requires that all construction activity on the site be stopped.

STORM WATER MANAGEMENT. The use of structural or nonstructural practices designed to reduce storm water runoff pollutant loads, discharge volumes, peak-flow discharge rates, and detrimental changes in stream temperature that affect water quality and habitat.

STORM WATER MANAGEMENT BOARD. The administering authority of this subchapter, established and empowered by the " 34.45 and 34.46.

STORM WATER MANAGEMENT PLAN. A comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.

STORM WATER QUALITY MEASURE. A practice or combination of practices to control or minimize pollutants associated with storm water runoff.

STORM WATER RETROFIT. A storm water management practice designed for an existing development site that previously had either no storm water management practice in place, or a practice inadequate to meet the storm water management requirements of the site.

TEMPORARY STABILIZATION. The covering of soil to ensure its resistance to erosion, sliding or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive materials applied at a uniform minimum density of 70% across the disturbed areas of a project site.

TOTAL MAXIMUM DAILY LOAD (TMDL). A calculation of the maximum amount of pollutant that a water body can receive and still meet water quality standards, established under Section 303(d) of the Federal Clean Water Act, and allocating pollutant loadings among point and non-point sources. The calculation must include a margin of safety that accounts for scientific uncertainty and future growth. Seasonal variations are also included. The **TMDL** is calculated using the following equation:

$TMDL = WLA + LA + MOS + SV$, where:

§ WLA = Waste Load Allocations
(point sources)

§ LA = Load Allocations
(non-point sources)

§ MOS = Margin of Safety

§ SV = Seasonal Variation

TOP OF THE CHANNEL. An edge or point on the landscape, landward from the ordinary highBwater mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary highBwater mark, the **TOP OF THE CHANNEL** is the ordinary highBwater mark.

TR-55. The United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), *Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55*, June 1986.

TRACKING. The movement and re-depositing of dirt, mud, aggregate, sediment or other storm water pollutants from a project site by the actions of wheels, tires, skids, tracks or other surface-contact components of cars, trucks, heavy equipment, or material and personnel transport conveyances.

TYPE II DISTRIBUTION. A rainfall type curve as established in the United States Department of

Agriculture, Soil Conservation Service, *Technical Paper 149*, published 1973.

WATER QUALITY VOLUME (WQ_v). The storage needed to capture and treat the first flush of runoff. The **WATER QUALITY VOLUME** is determined as the runoff resulting from the first inch of rainfall upon the site.

WATERCOURSE. Any body of water, including but not limited to, lakes, ponds, rivers, streams and bodies of water, delineated within the town.

WATERWAY. A channel that directs surface runoff to a watercourse or to the public storm drainage system.
(Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.203 PERFORMANCE CRITERIA FOR STORM WATER MANAGEMENT.

(A) *Performance criteria.* Prior to design, applicants are required to consult with the administering authority to determine if they are subject to additional storm water design requirements. Unless judged by the administering authority to be exempt or granted a waiver, the following performance criteria shall be addressed for storm water management at all sites.

(1) All site designs shall establish storm water management practices to control the peak-flow rates of storm water discharge associated with specified design storms, and to reduce the generation of storm water.

(2) These practices should seek to utilize pervious areas for storm water treatment, and to infiltrate storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas, to the maximum extent practical, to provide treatment for both water quality and quantity.

(3) Natural topography and land cover features, such as natural swales, natural depressions, native soil-infiltrating capacity, and natural

groundwater recharge areas, shall be preserved and used, to the extent possible, to meet the requirements of this section.

(B) *Minimum requirements.*

(1) *Quantity calculations - estimated.*

(a) Design of off-site runoff, on site conveyance network, and street drainage shall meet the minimum requirements set forth in the current edition of the Lowell Town Standards adopted by the Lowell Town Council;

(b) *Lot drainage.*

1. *Minimum lot grades.*

a. *Primary lot.* The **PRIMARY LOT** is that portion of the lot between the frontage road and the rear face of the residence or building. The minimum grades permissible in the primary lot are as follows:

<i>Type of grade</i>	<i>Recommended</i>	<i>Minimum</i>
Surface	2%	1%
Lot Line Swale	2%	1%
Cross Lot Swale	1%	0.5%

b. *Secondary lot.* The **SECONDARY LOT** is that portion of the lot between the rear property line and the rear face of the residence or building. The minimum grades permissible in the secondary lot are as follows:

<i>Type of grade</i>	<i>Recommended</i>	<i>Minimum</i>
Surface	1.5%	1%
Lot Line Swale	1%	0.5%
Cross Lot Swale	1%	0.5%
Surface Over Septic Fields	2%	1%

2. *Common swales.*

a. A **COMMONSWALE** is one that serves as a drainage course, carrying the runoff from two or more lots or properties. (Side lot line swales may be excepted from this requirement.)

(2) *Quality calculations - actual: storm water quality requirements (treatment of the WQ_V upon development completion).* The **WATER QUALITY VOLUME** is the storage needed to capture and treat the runoff from the first inch of rainfall. In numerical terms, it is equivalent to an inch of rainfall multiplied by the volumetric runoff coefficient (R_V) and the site area.

(a) The following equation is used to calculate WQ_V (in acre-feet):

$$WQ_V = \frac{(P)(R_V)(A)}{12}$$

where:

WQ_V = water quality volume (acre-feet)

P = one inch of rainfall

$R_V = 0.05 + 0.009(I)$ where I is the percent impervious cover

A = area in acres

(3) *Impact drainage areas - special requirements in protective areas.*

(a) The administering authority is authorized, but is not required, to classify certain geographical areas as impact drainage areas, and to enact and promulgate regulations, which are generally applied. In determining impact drainage areas, the administering authority shall consider such factors as topography, soil type, capacity of existing regulated drains, and distance from adequate drainage facilities. In addition to specific impact drainage areas classified by the administering authority, the following areas are hereby designated as impact drainage areas, unless good reason for not including them is presented and approved by the Storm Water Management Board:

1. A floodway, floodway fringe or floodplain boundary as designated by the Indiana Department of Natural Resources.

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2. A flood boundary area or floodway as designated by the Federal Emergency Management Agency National Flood Insurance Program.

3. Land within 75 feet of each bank of any open channel, regulated drain.

4. Land within 75 feet of the centerline of any regulated drain tile.

(b) Impervious surfaces shall be kept out of the protective area to the maximum extent practicable.

(c) Where land-disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

Note to users: It is recommended that seeding of nonBgressive vegetative cover be used in the protective areas. Vegetation that is flood- and drought-tolerant, and can provide long-term bank stability because of an extensive root system, is preferable.

(d) Best management practices, such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.

(e) This paragraph does not apply to:

1. Redevelopment sites;

2. In-fill development less than five acres; or

3. Structures that cross or access surface waters, such as boat landings, bridges and culverts.

(f) Storm water discharges to critical areas with sensitive resources (i.e., navigable waters, receiving waters with approved TMDL limits, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain storm water management practices.

(4) *Fueling and vehicle maintenance areas.* Special requirements for new retail gasoline outlets, new municipal, state, federal, institutional or commercial refueling areas, or refueling areas that replace their existing tank systems. (Excludes individual or agricultural users.)

(a) Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

(b) **Note to users:** A combination of the following BMPs may be used:

- 1. Oil and grease separators;
- 2. Canopies;
- 3. Petroleum spill cleanup materials; or
- 4. Any other structural or nonstructural method of preventing or treating petroleum in runoff.

(5) *Alternative requirements.* The administrative authority may establish storm water management requirements more stringent than those set forth in this section, if the MS4 Operator determines that an added level of protection is needed to protect sensitive resources.

(Ord. 2006-25, passed 12-28-06; Am. Ord. 2015-21, passed 9-14-15; Am. Ord. 2019-10, passed 5-28-19)

' 53.204 STORM WATER MANAGEMENT PLAN DESIGN CRITERIA.

(A) *Minimum requirements.* All development disturbing at least one acre and all redevelopment disturbing at least 10,000 square feet must include provisions to preserve or minimize impacts to pre-development site hydrology and topography, to the maximum extent practicable, through runoff pollution prevention techniques. In addition to runoff pollution prevention measures, storm water treatment BMPs shall be incorporated into plan design as needed to meet the performance criteria in ' 53.203.

(B) *Runoff pollution prevention.*

(1) *Storm water management begins with thoughtful design.* Site planning that integrates comprehensive storm water management from the outset is the most effective way to reduce and prevent pollution and flooding. Good site planning can also reduce the size and cost of structural solutions. When BMP storm water structures are proposed only at the final stages of design and construction, the result is often unnecessarily large and costly facilities. Planning ahead can prevent the need for large structures.

(2) *Site-planning practices.* With careful site planning, developers and municipalities can reduce the amount of impervious area created by pavement and roofs, and thus, reduce the volume of runoff and associated pollutants requiring control. Practices that could be considered:

- (a) Select site designs that preserve or minimize impacts to pre-development site hydrology and topography.
- (b) Protect environmentally sensitive areas.
- (c) Practice conservation development.
- (d) Use cluster development.
- (e) Create open space.
- (f) Maximize the flow path from inflow points to outflow points.

(g) Provide underdrain systems, where applicable.

(h) Reduce hydraulic connectivity of impervious surfaces.

(i) Practice rooftop greening.

(j) Relax frontage and setback requirements.

(k) Modify sidewalk standards.

(l) Modify driveway standards.

(m) Use alternative cul-de-sac designs.

(n) Use alternative parking lot surfaces.

(C) *Storm water treatment BMPs.*

(1) *Types of treatment BMPs.*

(a) A variety of BMPs are effective in:

1. Filtering storm water;
2. Reducing the speed at which it leaves a site; and
3. Reducing the volume of runoff.

(b) These three actions are critical to reducing non-point-source water pollution and protecting downstream water bodies.

(c) Some types of storm water treatment BMPs are:

1. Retention systems;
2. Detention systems;
3. Infiltration systems;
4. Filtration systems;

5. Constructed wetlands; and

6. Alternative outlet designs.

(2) *Location and regional treatment options.*

All storm water storage facilities shall be constructed within a dedicated storm water storage easement, which meets the minimum requirements set forth in the latest edition of the Lowell Town Standards adopted by the Lowell Common Council.

(3) *Location of BMPs.* BMPs may be located on site or off site as part of a regional storm water device, practice or system.

(4) *Off-site management conditions.* The administering authority may approve off-site management measures, provided that all of the following conditions are met:

(a) The administering authority determines that the post-construction runoff is covered by a storm water management system plan that is approved by the local public agency; and

(b) The plan approved contains specific management requirements consistent with the stated purposes and intent of this subchapter.

(5) *Off-site facility conditions.* The off-site facility shall meet all of the following conditions:

(a) The facility is in place;

(b) The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this subchapter; and

(c) The facility has a person or entity legally obligated and responsible for its long-term operation and maintenance.

(6) *Exemption fee.* Where a regional treatment option is utilized, such that the Storm Water Management Board may exempt the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be

post-construction runoff, the Board shall consider an equitable distribution of the cost for land, engineering design, construction and maintenance of the regional treatment option.

(Ord. 2006-25, passed 12-28-06; Am. Ord. 2015-21, passed 9-14-15; Am. Ord. 2019-10, passed 5-28-19)

' 53.205 STORM WATER MANAGEMENT PERMIT PROCEDURES AND REQUIREMENTS.

(A) Permit required.

(1) No responsible party may commence a land-disturbing construction activity within the town without first receiving prior approval of a site development permit.

(2) No developer or other person shall be granted a site development permit without the approval of a storm water management permit application package by the administering authority for land-disturbing activity within the town. (Individual building lots of less than one acre, see division (A)(3) below.)

(3) The developer of an individual building lot containing less than one acre, but which is part of a multi-lot construction project within the town, shall be required to complete a Declaration of Responsibility for Erosion and Sediment Control for a Small Residential Lot, prior to receipt of a site development permit. This declaration assigns responsibility for conformance to the storm water management plan to the individual building lot developer, as required in 327 IAC 15-5-7.5.

(4) No site development permit is required for the following activities:

(a) Any emergency activity that is immediately necessary for the protection of life, property or natural resources.

(b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(B) Permit application package requirements.

(1) *Written permit application.* The appropriate application may be obtained through the Community Development Director's Office.

(2) *Construction plans.* The following elements shall be included within the construction plan:

(a) *Contact information.* The name, address and telephone number for the following or their designees:

1. The landowner;
2. The developer;
3. The project engineer for practice design and certification; and
4. All other agents, attorneys or others, as applicable.

(b) *Legal description.* A formal and complete legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system, or to block and lot numbers within a recorded land subdivision plat that has been approved or prepared by a registered land surveyor.

(c) *Location and vicinity maps.*

(d) *Topographic base map - pre-developed condition.*

1. A topographic base map, not exceeding 1"=400' scale of the site, which extends a minimum of 300 feet beyond the limits of the proposed development, and indicates:

a. Existing surface water drainage, including streams, ponds, culverts, ditches and wetlands;

[Text continues on pg. 66]

b. Predominant soil types and hydrologic soil groups, current land use, including all existing structures;

c. Existing cover type and condition, topographic contours of the site at intervals not to exceed five feet where the slope is greater than 10%, and not more than two feet when the slope is less than 10%;

d. Flow path and direction for all storm water conveyance sections;

e. Watershed boundaries used in hydrology determinations, to show compliance with the performance standards, locations of utilities, roads and easements; and

f. Significant natural and man-made features not otherwise shown.

(e) *Soils information.*

1. If a storm water management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted.

2. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined, based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(f) *Post-developed site conditions.* A map of the site, not exceeding 1"=100' scale, which extends a minimum of 300 feet beyond the limits of the proposed development, and shows the following:

1. Post-construction pervious areas, including vegetative cover type and condition; impervious surfaces, including all buildings, structures and pavement; post-construction topographic contours of the site at intervals not to exceed five feet where the slope is greater than 10%, and not more than two feet when the slope is less than 10%;

2. Post-construction drainage network;

3. Dimensions of drainage easements;

4. Locations of maintenance easements specified in the maintenance agreement;

5. Flow path and direction for all storm water management conveyance and treatment practices, including on-site and off-site tributary drainage areas;

6. Watershed boundaries used in hydrology determinations, to show compliance with the performance standards, locations of utilities and roads, and any changes to lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site.

(3) *Technical information report.*

(a) *Location factors.*

1. Explanation of the provisions to preserve and use natural topography and land cover features, to minimize changes in peak-flow runoff rates and volumes to surface waters and wetlands; and

2. A detailed narrative explanation of any restriction on storm water management measures in the development area imposed by wellhead protection plans and ordinances.

(b) *Design calculations.* Design calculations are required as part of the storm water permit application package and shall, at a minimum, specifically include:

1. Estimation of storm water runoff. Runoff rates during the required storm durations; C-values or SCS runoff curve numbers; and computed times of concentration.

2. Drainage area calculations.

3. Weighted curve number or runoff coefficient computations.

4. Time of concentration computation, indicating overland flow time, shallow concentrated flow time, and flow time in the swale, gutter, pipe or channel.

5. Inlet grate and gutter flow computations.

6. Closed conduit and open channel design computations, including:

a. Size of pipe or channel cross-section;

b. Pipe or channel inverts slope in percent;

c. Material and roughness coefficient; and

d. Flowing velocities in feet per second.

7. Design capacity in cubic feet per second.

8. Storm drain flow and hydraulic grade line (HGL) computations.

9. Detention/retention summary information.

(4) *Erosion and sediment control plan and details.* The erosion and sediment control plan submitted shall include all documents and information required within 327 IAC 15-5.

(5) *BMP calculations and schedules.* Pertinent calculations illustrating the water quality volumes, and the like, along with the installation schedule and maintenance requirements, shall be submitted for each BMP selected.

(6) *Operation and maintenance manual for BMPs.* An operations and maintenance (O&M) manual for BMPs (when required) shall be submitted for the final plan approval and permit process, and

will become a compliance guideline for the BMP once development is complete. The O&M manual will include the following:

(a) BMP owner name, address, business phone number, home phone number, e-mail address, cellular phone number, pager number;

(b) Site drawings (8-1/2" x 11"), showing both plan and cross-section views, showing the BMP and applicable features, including dimensions, easements, outlet works, forebays, signage, and the like;

(c) Guidance on owner-required periodic inspections, and identification of inspection certification requirement to the administering authority;

(d) Requirement of owner to perform maintenance specified by administering authority inspection, if any;

(e) Guidance on routine maintenance, including mowing, litter removal, woody growth removal, signage, and the like;

(f) Guidance on remedial maintenance, such as inlet replacement, outlet works maintenance, and the like;

(g) Guidance on sediment removal, both narrative and graphical, describing when sediment removal should occur in order to insure that the BMP remains effective as a water quality and/or quantity control device;

(h) A statement that the administering authority's representatives have the right to enter the property to inspect the BMP;

(i) A tabular schedule showing inspection and maintenance requirements; and

(j) Identification of the property/ BMP owner as the party responsible for maintenance, including costs.

(k) *Financial guarantees.* As required in ' 53.207.

(C) *Application review fees.* The application package shall be accompanied by a fee for plan review and a fee for on-site inspections of implementation of requirements of this subchapter. These fees shall be as follows and in addition to all other local fee(s) charged for development and building:

(1) A storm water management plan review fee equal to 0.125% of the cost of proposed improvements; and

(2) A fee for on-site inspections for storm water management equal to 0.625% of the cost of proposed improvements.

(3) All storm water review fees due and owing, including any other permit or building fees, must be paid in full prior to commencement of construction.

(D) *Application procedures.*

(1) Applications for site development permits must be filed (i.e., delivered) with the administering authority on any regular business day.

(2) Permit applications shall include: four copies of the construction plans, and the erosion and sediment control plan and details; four copies of all remaining required elements; and full payment of any required review fees.

(3) The administrative authority shall determine if the application package is complete within ten business days of receipt of items noted in division (D)(2). If the application package is determined incomplete, the review period indicated in ' 53.206(A) shall not commence.

(E) *Permit conditions.*

(1) *General conditions.* All permits issued under this subchapter shall be subject to the following conditions, and holders of permits issued under this

subchapter shall be deemed to have accepted these conditions:

(a) The administering authority may suspend or revoke a permit for violation of a permit condition, following written notification to the responsible party.

(b) An action by the administering authority to suspend or revoke this permit may be appealed in accordance with ' 53.210

(c) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state and local laws and regulations.

(d) The responsible party shall design and install all runoff pollution prevention and/or storm water treatment BMPs in accordance with the approved storm water management plan and this permit.

(e) The responsible party shall notify the administering authority at least two business days before commencing any work in conjunction with the storm water management plan.

(f) The responsible party shall notify the administering authority of any significant modifications it intends to make to an approved storm water management plan. The administering authority may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.

(g) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan, until the practices either become the responsibility of the town, or are transferred to subsequent private owners, as specified in the approved maintenance agreement.

(h) The responsible party authorizes the administrative authority to perform any work or operations necessary to bring storm water management

measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property, or to charging such costs against the financial guarantee posted under ' 53.207.

(F) *Permit duration.*

(1) *Initial term.* The permit shall be valid for the shorter of five years from the date of issuance, or until:

- (a) The permit is revoked through enforcement action;
- (b) The permit is transferred; or
- (c) The permit is terminated as stated in division (F)(2).

(2) *Permit termination.* Upon completion of all construction activities associated with the site development permit, the applicant shall submit a notice of termination (NOT) letter to the MS4 Operator. Termination of permit will be issued by the MS4 Operator only if the following conditions are met:

- (a) All land-disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized.
- (b) All public and common improvements, including infrastructure, have been completed, permanently stabilized, and transferred to the appropriate local entity.
- (c) The applicant may submit a NOT letter to obtain early release from compliance with this rule, if the following conditions are met:

1. The remaining, undeveloped acreage does not exceed five acres, with contiguous areas not to exceed one acre.

2. A map of the project site, clearly identifying all remaining undeveloped lots, is

attached to the NOT letter. The map must be accompanied by a list of the names and addresses of individual lot owners or individual lot operators of all undeveloped lots.

3. The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.

4. All permanent storm water quality measures have been implemented and are operational. (Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.206 STORM WATER MANAGEMENT PLAN REVIEW AND APPROVAL.

(A) *Review period.*

(1) Within 28 days after the receipt of a completed permit application, including all documents and fees required by this subchapter, the administering authority shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.

(2) If the project site owner does not receive notification, within 28 days after the administering authority has received the completed permit application, stating that the plan has been disapproved, the project site owner may submit the notice of intent (NOT) letter information to IDEM in accordance with 327 IAC 15-5-6(a) and ' 207(B) below.

(3) If notification of a disapproved plan is received after the review period outlined above and following commencement of construction activities, the plans must be modified to meet the requirements of the article and resubmitted within 14 days of receipt of the notification of disapproved plans.

(4) The initiation of construction activity, following notification by the administering authority that the plan does not meet the requirements of this subchapter, is a violation and subject to enforcement action.

(B) *Review actions available.*

(1) *Approve.* If the permit application is found to be completely consistent with the requirements within this subchapter, the administering authority shall issue a notice of plan approval (NPA).

(2) *Approve with conditions.* The permit application is generally consistent with the requirements within this subchapter, but specific minor modifications are required to meet all of the applicable requirements. Therefore, the administering authority shall issue the permit subject to these written conditions, along with a conditional notice of plan approval (CNPA).

(3) *Disapprove.* The permit application does not meet the requirements of this subchapter and requires modifications that would result in significant changes to the construction plan, or erosion and sediment control plan. Therefore, the administering authority shall disapprove the application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

(C) *Notification to the Indiana Department of Environmental Management.* At least 48 hours prior to any land-disturbing activities, the developer must include:

(1) The NPA or CNPA as verification of plan approval; and

(2) A notice of intent (NOT) sent to the Director of IDEM in accordance with 327 IAC 15-5-6(a). (Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.207 FINANCIAL GUARANTEE AND AS-BUILT DOCUMENTS.

(A) *Performance bonds or irrevocable letters of credit for storm water treatment BMPs.*

(1) Prior to the issuance of any permit, the applicant will be required to file with the town a

faithful performance bond, letter of credit, or other improvement security, to insure that the storm water practices are timely and properly installed by the permit holder, as required by the approved storm water management plan.

(2) The performance security shall contain forfeiture provisions for failure to complete work specified in the storm water management plan. The amount of the installation security shall be the total estimated construction cost plus 20% of the storm water management practices approved under the permit, including but not limited to:

(a) Total installed cost for storm drain pipe, culvert, manhole, and box inlet installation;

(b) Total cost for site filling and grading, including construction of open drainage swales and detention/retention facilities, landscaping; and

(c) Engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

(B) *Maintenance bonds.*

(1) Prior to the release of the performance surety, a maintenance surety will be required.

(2) This surety will be in an amount deemed sufficient by the MS4 Operator to cover all costs of maintenance of improvements, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site, and to cover a period of two years from the date of acceptance by the administering authority.

(C) *As-built documents required.*

(1) As part of the final acceptance process, as-built documents, being plans and calculations of the as-built conditions, of the storm water facilities shall be submitted to the administering authority, as set forth herein, for each of the following types of developments:

- (a) All platted subdivisions.
- (b) All industrial and commercial sites.

(2) As-built drawings shall be prepared and certified, by either a registered land surveyor or a professional engineer licensed in the State of Indiana, and provide the following information:

- (a) Building pad elevations;
- (b) Structure inverts, pipe inverts, top-of-casting elevation and the flow line of rear and/or side yard swales, at 50-foot intervals or at lot lines;
- (c) Horizontal alignment of storm drain pipes, culverts, streets, and storm drain structures, to a minimum accuracy of plus or minus two feet;
- (d) The horizontal location and/or bank cross-sections for all detention/retention facilities, or other information sufficient to verify that the constructed detention/retention facility provides the required minimum runoff storage volume;
- (e) A tag reference to the operations and maintenance manual for each BMP will be included.

(3) All as-built plans shall be submitted in both an approved digital format and a paper copy.

- (a) The digital submittal will be in a format compatible with Lake County's Geographical Information System (GIS) database.
- (b) If notice of non-compliance is not given within 30 calendar days from the date of submission of the as-built documents, they shall be construed as approved.

(D) *Release of sureties.*

(1) Notice of the scheduled date for completion of construction shall be provided to the

administering authority at least 72 hours prior to its planned completion.

(2) The contractor or owner will schedule the final inspection with the administering authority's observer.

(3) A bond or letter of credit will not be released by the Town Council until final approval and acceptance of all improvements has been made. (Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.208 SITE INSPECTIONS AND MAINTENANCE PROVISIONS.

(A) *Notice of construction commencement.*

(1) The applicant must notify the administering authority 48 hours in advance before the commencement of construction.

(2) It shall be a condition of every site development permit that the administering authority has the right to enter the construction project site periodically to inspect for compliance with the site development permit and this subchapter.

(B) *Inspections during construction.*

(1) *By permitted project owner.*

(a) The permittee shall maintain a copy of the approved storm water management plan on site.

(b) When required, the permittee shall designate a responsible person for self-monitoring, and provide all contact information for such individual to the administering authority.

(c) Self-monitoring shall be conducted within 24 hours of a measurable rain event, or at minimum once per week.

(d) All inspections shall be documented, and written reports prepared that contain the following information:

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1. The date and location of the inspection.

2. Whether construction is in compliance with the approved storm water management plan.

3. Any remedial action needed to maintain compliance with the approved storm water management plan.

4. Schedule and designated party for proposed remedial actions.

5. Written reports shall be kept on site, and be made available to the administering authority within 48 hours of request for review.

(2) *By administering authority.*

(a) Regular inspections of the storm water management system construction shall be conducted by the staff of the administering authority.

(b) All inspections shall be documented and written reports prepared that contain the following information:

1. The date, location and name of inspector.

2. Whether construction is in compliance with the approved storm water management plan.

3. Variations from the approved construction specifications.

4. Any violations that exist.

5. Inspectors shall notify the on-site personnel or the developer in writing when violations are being observed, describing items to address and actions to be taken.

(C) *Post-construction.*

(1) *Maintenance agreement required.*

(a) A maintenance agreement shall be required for storm water management practices, and shall be an agreement between the town and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit.

(b) The maintenance agreement shall be filed with the County Recorder as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.

(2) *Maintenance covenants.* The maintenance agreement shall contain the following information and provisions:

(a) Identification of the storm water facilities and designation of the drainage area served by the facilities.

(b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under ' 53.205, and the requirement that the responsible party(s), organization, or city, county or town shall maintain the practices in accordance with the schedule.

(c) Identification of the responsible party(s), organization or city, county or town responsible for long-term maintenance of the storm water management practices identified in the storm water management plan required under ' 53.205.

(d) Authorization for the administrative authority to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.

1. The party responsible for long-term maintenance of the storm water management practices shall be notified by the administrative

authority of maintenance problems that require correction.

2. The specified corrective actions shall be undertaken within a reasonable time frame as set by the administering authority.

(e) Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five years. These records shall be made available to the administrative authority during inspection of the facility, and at other reasonable times upon request.

(f) At minimum, annual inspection of the storm water management facility shall be the responsibility of the party responsible for the long-term maintenance of the storm water management practices. Record of the inspection and certification by a qualified individual that the storm water management system has been adequately maintained shall be submitted to the administering authority.

(g) Authorization of the administering authority to perform the corrected actions identified in the inspection report, if the responsible party for the long-term maintenance of the storm water management practices does not make the required corrections in the specified time period. The administering authority shall enter the amount due on the tax rolls and collect the money as a special charge against the property.

(h) Upon the recommendation of the Storm Water Management Board, in lieu of a maintenance covenant, the Town Council may accept dedication of any existing or future storm water management facility for maintenance; provided such facility meets all the requirements of this subchapter, and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.
(Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.209 ENFORCEMENT.

(A) *Violations.*

(1) Any land-disturbing construction activity or storm water runoff initiated after the effective date of this subchapter by any person, firm, association or corporation subject to its provisions shall be deemed a violation, unless conducted in accordance with all terms, conditions and requirements of this subchapter.

(2) The MS4 Operator shall issue a notice of violation to any person holding a site development permit that violates any term or condition contained in the permit, any provisions of this subchapter, or to any person who implements any site development in such a manner as to:

(a) Adversely affect the health, welfare or safety of persons residing or working in the neighborhood or development; or

(b) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood or development.

(B) *Notice of violation: types.*

(1) *Written notice of violation.* A written notice of violation, indicating actions deemed contrary to the permit, which are required to be corrected and brought into compliance within 48 hours or other specified period of time. An alternative 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.

(2) *Stop work order; revocation of permit.* A stop work order or revocation of permit is provided in writing to any persons engaged in the doing or causing of such work to be done in violation of this subchapter, and all persons receiving notice of such order shall immediately cease all work until authorized by the MS4 Operator in writing to proceed with work.

(C) *Penalties.*

(1) No person shall construct, enlarge, alter, repair or maintain any grading, excavation or fill, or cause the same to be done, contrary to or in violation of any terms of this subchapter.

(2) Any person violating any of the provisions of this subchapter shall be subject to the general penalties provided for by ' 10.99.

(3) In addition to any other penalty authorized by ' 10.99, any person, partnership, corporation or other entity convicted of violating any of the provision of this subchapter shall also be required to bear all costs and expenses of restoration.
(Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

(3) In evaluating the appeal, the Board shall be strictly bound by the standards and review criteria contained or referenced in this subchapter.

(4) All determinations of the Board arising out of any appeal shall be final.
(Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.211 **EFFECTIVE DATE.**

This subchapter shall be effective upon passage, any IDEM review, and any publication required according to law.
(Ord. 2006-25, passed 12-28-06; Am. Ord. 2019-10, passed 5-28-19)

' 53.210 **APPEALS.**(A) *Appeals process.*

(1) Upon receipt of a written notice of violation or stop work order against a site development permit, the developer may file a written appeal to the Lowell Storm Water Management Board, via certified mail or hand delivery to the Office of the Community Development Director for review.

(2) All such appeals shall be in writing, under oath, and must be delivered within five business days of receipt of any written notice of violation or stop work order, or the developer shall be deemed to have waived any right to appeal.

(B) *Appeal authority.*

(1) The Board shall complete its review within 60 days of receipt of a proper and timely filed request for appeal.

(2) The Board's determination on the appeal shall be in writing, and set forth in detail the reason for its decision.