

ORDINANCE NO. 2016-02

**AN ORDINANCE ESTABLISHING STANDARDS FOR THE
USE OF THE S.R. 13 INTERCHANGE TIF DISTRICT SEWAGE DISPOSAL SYSTEM
FOR THE ELKHART COUNTY REGIONAL SEWER DISTRICT**

WHEREAS, under Indiana Code 13-26, The Elkhart County Regional Sewer District, Elkhart County, Indiana ("ECRSD") has the power to and provides services to collect, treat, and dispose Sewage;

WHEREAS, the ECRSD constructed and currently operates a Sewage Disposal System for the Heaton Lake Community for the purpose of protecting public health and the environmental quality of the Heaton Lake Community and surrounding areas, and the ECRSD has operated such Sewage Disposal System since 2006;

WHEREAS, the ECRSD is constructing a Sewage Disposal System for an area designated as the State Road 13 Interchange TIF District ("S.R. 13 District") that will be separate and distinct from the Sewage Disposal System that the ECRSD operates for the Heaton Lake Community;

WHEREAS, the nature of customers for the S.R. 13 District Sewage Disposal System will be different from the customers of the Heaton Lake Community Sewage Disposal System, which will require separate rules, regulations, and requirements for the S.R. 13 District.

WHEREAS, the ECRSD needs to establish certain rules, regulations and requirements relative to the use of S.R. 13 District Sewage Disposal System; and

WHEREAS, the ECRSD wishes to keep in full force and effect Ordinance No. 06-06-07, as amended for application to the Heaton Lake Community Sewage Disposal System;

WHEREAS under Indiana Code §13-26-5-1 *et seq* the ECRSD has the power to adopt an ordinance establishing rules, regulations and requirements relative to the use of the S.R. 13 District Sewage Disposal System.

NOW, THEREFORE, BE IT RESOLVED, ESTABLISHED, AND ORDAINED by the Elkhart County Regional Sewer District, Elkhart County, Indiana that:

1. **SHORT TITLE AND PURPOSE**

1.1. This Ordinance shall be known as the "S.R. 13 Interchange TIF District Sewer Use Ordinance" and may be cited as such.

1.2. It is the purpose of this Sewer Use Ordinance to establish a regulatory scheme to:

1.2.1. prevent the introduction of pollutants into the Public Sanitary Sewer which will interfere with the operation of the system or contaminate the resulting sludge;

1.2.2. prevent the introduction of pollutants into the Public Sanitary Sewer which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

1.2.3. improve the opportunity to recycle and reclaim Sewage and sludge from the system;

1.2.4. provide for equitable distribution of the cost of the Public Sanitary Sewer; and

1.2.5. protect the physical integrity of the publicly owned treatment works and to provide for the safety of the public and workers on and in the works.

2. DEFINITIONS Unless otherwise defined in this Sewer Use Ordinance, the meaning of terms and phrases shall be defined as follows:

2.1. Building Drain means, in plumbing, that part of the lowest horizontal piping within a building or house that conducts Sewage to a Building Sewer.

2.2. Building Sewer means the horizontal piping and related equipment that extends from each property owner's Building Drain to the Public Sanitary Sewer.

2.3. County means Elkhart County, Indiana.

2.4. ECRSD means the Elkhart County Regional Sewer District.

2.5. Dwelling means any house or place used or intended to be used by human occupants as a place of residence.

2.6. **Excessive Strength Surcharge** means the extra charges for Sewer service assessed to customers whose waste water is of such a nature that it imposes upon the Sewage Treatment Plant a burden greater than that covered by the basic service charge.

2.7. **Garbage** means the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods. It is composed largely of putrescible organic matter and its natural moisture.

2.8. **Health Officer** means the health officer of the State of Indiana, County, or ECRSD.

2.9. **Inspector** means a person duly authorized by the ECRSD to perform facility inspections, Building Sewer inspections, and any necessary inspection and monitoring duties to determine compliance with this Sewer Use Ordinance, and with all applicable statutes, ordinances, rules, regulations, or other laws.

2.10. **Interference** means a discharge that, alone or in conjunction with a discharge or discharges from other sources, does one (1) of the following:

2.10.1. Inhibits or disrupts the Sanitary Sewer, its treatment processes or operations, its sludge processes, or its selected sludge use or disposal methods;

2.10.2. Causes a violation of any requirement of the ECRSD, including an increase in the magnitude or duration of a violation.

2.11. **Lateral Sewer** means that portion of the Building Sewer in the public right-of-way or easement.

2.12. **Natural Outlet** means any channel including storm sewers, watercourse, pond, ditch, lake, or other body of surface or groundwater in which a flow of water occurs, either continuously or intermittently.

2.13. **Nuisance** means any substance or condition which is injurious to health 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 results in a nuisance as defined by Indiana law.

2.14. **Operation and Maintenance (O & M)** means all expenses related directly to operating and maintaining, including replacement of, the Public Sanitary Sewer.

2.15. **Person** means any individual, partnership, co-partnership firm, firm, company, corporation, association, society, corporation, or group, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

2.16. **Public Sanitary Sewer** means any common sewer designed to collect and convey liquid, Sewage, and water-carried Wastes from residences, commercial buildings, industrial plants, and institutions, to which storm, surface and ground waters are not intentionally allowed to enter, controlled by a governmental agency or public utility, including that constructed, installed, maintained, operated and/or owned by the ECRSD.

2.17. **Receiving Utility** means the utility, currently the White Pigeon Sanitary System, White Pigeon, Michigan, that accepts from the ECRSD Sewage for treatment at a Sewage Treatment Plant, or otherwise.

2.18. **Septic Tank** means a watertight structure into which Sewage is discharged for settling and solids digestion.

2.19. **Sewage** means liquid or water-carried Wastes from residential, commercial, industrial, municipal, agricultural, or other sources within the S.R. 13 District that is transported and collected by a Public Sanitary Sewer.

2.20. **Sewage Disposal System** means a system which is designed to receive Sewage and transport the Sewage to a proper sewage treatment system.

2.21. **Sewage Treatment Plant** means any arrangement of devices and structures used for treating Sewage.

2.22. **Sewage Works** means all facilities for collecting, pumping, treating, and disposing of Sewage.

2.23. **Sewer** means a pipe and/or conduit which carries Sewage or drainage water.

2.24. **Shall** is mandatory; **May** is permissive.

2.25. **Suspended solids** means solids which either float on the surface of, or are suspended in water, Sewage, or other liquids, and which are removable by laboratory filtration.

2.26. **User** means a Person who discharges any Pollutant, Sewage or any other substance into the Public Sanitary Sewer. The term User includes both the owner and occupant of real estate that is the source of a discharge into the Public Sanitary Sewer.

2.27. **User Charge** means a charge levied on Users of the Public Sanitary Sewer for the User's proportionate share of the cost of Operation and Maintenance, including replacement of the Public Sanitary Sewer.

2.28. **Waste** means 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, processing, manufacturing, or industrial operation of whatever nature, including such Waste placed within containers of whatever nature prior to, and for purposes of, disposal.

3. **GENERAL REQUIREMENTS**

3.1. The owner(s) of all houses, buildings, or properties used for human occupancy, recreation, commercial, industrial, or other purposes, situated within the S.R. 13 District and abutting on any street, alley or public right-of-way or easement in which there is now located or may in the future be located a Public Sanitary Sewer of the ECRSD or along or across which there is access to such a sewer, shall be required, upon written notice given by the ECRSD, at the owners' expense, to install toilet facilities and other wastewater facilities in accordance with the Rules and Regulations for Building Sewer Connections, a copy of which is attached hereto as "Exhibit A", along with any revisions subsequently made thereto by the ECRSD ("Rules and Regulations"), and to connect such facilities via a Building Sewer directly with the Public Sanitary Sewer in accordance with the proper provisions of this Sewer Use Ordinance, as well as the provisions of the Rules and Regulations, within ninety (90) days after date of official notice to do so, provided

that said Public Sanitary Sewer is within three hundred (300) feet or 30.5 meters of the property line and the property owner(s) do not meet the requirements for the exemption from connection as set forth in IC 13-26-5-2.5. It shall be the responsibility of the property owner(s) to connect the Building Sewer to the Public Sanitary Sewer. Failure to connect within ninety (90) days shall be a violation and subject to Section 10 hereof.

3.2. With respect to any abandonment of existing Septic Tanks and related systems, and after the property owner has connected to the Public Sanitary Sewer, the property owner shall adhere to the regulations set forth in the Protocol for Onsite Sewer System Abandonment, a copy of which is attached hereto as Exhibit B, along with any revisions subsequently made to the Protocol for Onsite Sewer System Abandonment by the ECRSD. As a condition of connection to a Public Sanitary Sewer the owner shall grant a right of access easement to the ECRSD to any abandoned Septic Tank and related system for the purpose of inspection.

3.3. Any Person constructing a new house or other building for occupancy, employment, recreation, industrial or commercial activity within the limits of the S.R. 13 District and abutting a public right-of-way or easement in which there is now located a Public Sanitary Sewer, or along or across which there is access to such a Public Sanitary Sewer, shall connect to such Public Sanitary Sewer in accordance with applicable ordinances and regulations, and shall not discharge Sewage elsewhere than into the Public Sanitary Sewer.

3.4. Except as hereinafter provided, it shall be unlawful for any Person to construct within the S.R. 13 District limits a privy, privy vault, Septic Tank and related system, cesspool, dry well or other on-site system for Sewage disposal intended or used as the sole method for the disposal of Sewage.

3.5. No unauthorized Person shall uncover, make any connection with or opening into, use, alter, or disturb any Public Sanitary Sewer or appurtenance thereof without first obtaining a written permit from the ECRSD. To do otherwise is a violation.

3.6. No city, town, county, regional district, public institution, firm, corporation, or officer or employee thereof, or other Person, shall install or contract for the construction of any sewers, sewage treatment works, or other sewage facilities, designed to collect, convey, treat, or otherwise dispose of any water carried or liquid Waste of domestic, commercial, or industrial origin or make any material change in any such existing sewage facilities or sewage treatment or disposal works until plans and specifications, together with an engineering report supporting in detail the design set forth in such plans, shall have been submitted to and have been approved by the Elkhart County Board of Health and the ECRSD so far as it relates to their sanitary features.

3.7. All costs and expenses incidental to the installation and connection of the Building Sewer to the Public Sanitary Sewer shall be borne by the owner, with the exception that the ECRSD shall, at its expense, inspect each septic system abandonment and connection to the Public Sanitary Sewer prior to connection. Said inspection shall be for the purpose of ensuring that the Building Sewer connected to the Public Sanitary Sewer is structurally sound and meets all criteria as provided in the Rules and Regulations. The owner shall indemnify the ECRSD from any loss or damage that may directly or indirectly be occasioned by the installation of the Building Sewer. The costs borne by the property owner shall include any existing septic system abandonment, construction, and connection of Building Sewer to the Public Sanitary Sewer and any associated costs. The property owner shall also bear all monthly User Charges and usage costs associated with the Public Sanitary Sewer.

3.8. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County and/or a Health Officer.

4. BUILDING SEWER ATTACHMENTS

4.1. 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, courtyard, or driveway unless the ECRSD approves an alternative

Building Sewer. The Building Sewer from the front building may be extended to the rear and the whole considered as one Building Sewer. However, the ECRSD does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

4.2. Existing Building Sewers may be used in connection with new buildings or houses only when they are determined, upon inspection and testing by the ECRSD, to meet all requirements of this Sewer Use Ordinance.

4.3. The size, shape, alignment, slope, and materials of construction of a Building Sewer; the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench; and the construction of the Building Sewer shall conform to the specifications and requirements found in the Rules and Regulations, as well as other applicable State and receiving entity rules and regulations, and shall otherwise conform to the Schematic Drawings, a copy of which are attached to the Rules and Regulations as Figures 1-9, along with any revisions subsequently made thereto by the ECRSD.

4.4. The ECRSD shall deny any permit if the information on the application is incomplete, inaccurate, or indicates that the provisions of this Sewer Use Ordinance cannot be met.

5. BUILDING SEWER

5.1. Before commencement of construction, modification, or repair of a Building Sewer requiring excavation, the owner or his agent shall first complete an application and obtain a written permit designed by the ECRSD. The application for such permit shall be made on the Application for Building Sewer Connection Permit ("Application"), a copy of which is attached hereto as part of the Rules and Regulations, furnished by the ECRSD, as well as an Industrial User Wastewater Questionnaire and any other document reasonably requested by the ECRSD, which the applicant shall supplement with any plans, specifications, and other information as are considered pertinent and deemed necessary in the judgment of the ECRSD. Application, permit, and inspection fees shall be paid to the ECRSD at the time the Application is filed. The amount

of said fee may be amended from time to time by separate ordinance of the Board of Trustees of the ECRSD.

5.2. No permit shall be issued until the Application has been completed to the satisfaction of the ECRSD. The ECRSD shall deny any permit if the information on the Application is incomplete, inaccurate, or indicates that the provisions of this Sewer Use Ordinance cannot be met.

5.3. Installation, modification, or repair of a Building Sewer shall be performed in accordance with this Sewer Use Ordinance, and other applicable State, County, and ECRSD Rules and Regulations.

5.4. After receiving an order in writing from the ECRSD, the owner, agent of the owner, the occupant or agent of the occupant of the property shall comply with the provisions of this Sewer Use Ordinance, and other applicable State, County, and ECRSD Rules and Regulations as set forth in said order and within the time limit included therein. Said order shall be served on the owner or may be served on any Person who, by contact with the owner, has assumed the duty of complying with the provisions of an order.

5.5. The ECRSD shall be allowed to inspect Building Sewers work at any stage of construction, and, in any event, the applicant for the permit shall notify the ECRSD when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the ECRSD.

5.6. Building Sewers under public or private property shall remain the full and sole responsibility of the property owner with regards to the maintenance, reaming, cleaning and all other related maintenance required for the normal operation of the Building Sewer. The owner shall operate and maintain the Building Sewer in a fully operational and sanitary manner at all times, at no expense to the ECRSD.

5.7. The Application and Building Sewer Connection Agreement shall be posted in a conspicuous place at or near the building where the Building Sewer is under

construction. The notice should be plainly visible from the public thoroughfare serving said building.

5.8. No Person shall make connection of roof downspouts, foundation drains, sump pumps, areaway drains (basement or yard), or other clear water sources of surface runoff or groundwater to a Building Sewer which in turn is connected directly or indirectly to a Public Sanitary Sewer. Clear water sources include, but are not limited to, inflow, roof downspouts, foundation drains, subsurface drainage, areaway drains, driveways, parking lots, single pass non-contact cooling water, or other sources of surface water runoff or groundwater. Upon reasonable notice, the Inspector may enter a building to inspect connections to ensure all requirements are met. Further, the ECRSD may require present Users to disconnect existing clear water sources at the User's expense.

5.9. The connection of the Building Sewer into the Public Sanitary Sewer shall conform to the requirements of the Rules and Regulations, applicable building and plumbing code, or other applicable rules and regulations of the ECRSD. Any deviation from the prescribed procedures and materials must be approved by the ECRSD or certified representative before installation.

5.10. All excavations for Building Sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Street, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the said ECRSD or County.

5.11. The applicant for the Building Sewer permit shall notify the ECRSD when the Building Sewer is ready for inspection and connection to the Public Sanitary Sewer. Notification shall be made in accordance with the Director's standard inspection procedures. The connection and testing shall be made under the supervision of the ECRSD Inspector or its representative using materials and techniques conforming to the requirements of the Board. The applicant shall provide access to all structures and areas of structure to the ECRSD for the purpose of establishing compliance with this Sewer Use Ordinance. The applicant shall give notice before the burial or covering of the Building

Sewer and shall not cover or bury the sewer until the inspection is completed and the connection approved.

5.12. A Building Sewer shall be located at least 50 feet from any water supply and according to the provisions outlined in Exhibit A, as amended.

5.13. The ECRSD or its representative shall have the right to prohibit new connections when the capacity of the Public Sanitary Sewer is deemed insufficient due to, but not limited to, the expected flow, cBOD₅, total suspended solids, ammonia or phosphorus loadings from the prospective User.

5.14. Any work disturbing 1 acre or more of ground shall require a SWPPP according to all applicable statutes, rules, regulations, ordinances, or law.

6. DISCHARGE OF SEWAGE

6.1. It shall be unlawful for any Person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the ECRSD, or in any area under the jurisdiction of the ECRSD, any human or animal excrement, garbage or objectionable Waste.

6.2. It shall be unlawful to discharge to any Natural Outlet within the S.R. 13 District or in any area under the jurisdiction of the ECRSD, any Sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Sewer Use Ordinance.

6.3. No storm water or any other unpolluted drainage shall be discharged by any Person into a Building Sewer or otherwise into the Public Sanitary Sewer constructed and maintained by the ECRSD.

7. SUBSTANCES PROHIBITED

7.1. All discharges from a Building Sewer to the Public Sanitary Sewer must be of domestic type of Sewage. No Person shall discharge, or cause to be discharged, substances, materials, any waters, or Wastes if it appears likely in the opinion of the ECRSD that such Wastes, which either alone or by interaction with other discharged substances, can harm either the Public Sanitary Sewer, sewers, sewage treatment process,

or equipment; have an adverse effect on the receiving stream; or can otherwise endanger or create a hazard to human health, life, limb, public property, constitute a Nuisance, (private or public) or violate the rules and regulations of the Receiving Utility. In forming an opinion as to the acceptability of these Wastes, the ECRSD will give written consideration to such factors as the quantities of subject Wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment plant, degree of treatability of Wastes in the sewage treatment plant, whether said substances will violate any receiving entity rules or regulations, and other pertinent factors.

7.2. No Person shall discharge any Waste, Sewage, pollutant or other substance directly into a manhole or other opening in the treatment works other than through the approved Building Sewer, except in accordance with the terms of this Sewer Use Ordinance or by express permission of the ECRSD.

7.3. All Users shall take all reasonable steps to minimize or prevent any adverse impact of any discharge in violation of this Sewer Use Ordinance which has a reasonable likelihood of adversely affecting human health, the Public Sanitary Sewer, the waters receiving the Public Sanitary Sewer discharge, or the environment.

7.4. A User shall **NOT** discharge into the Public Sanitary Sewer the following:

7.4.1. Any waters, Sewage, or Wastes that may cause Interference with the Sewage Works; that contain contaminants in concentrations in excess of allowable limits, including but not limited to fats, oils, grease, arsenic, wax, iron, copper, zinc, ammonia, lead, mercury and similar objectionable or toxic substances; that contain contaminants in concentrations exceeding limits established by the ECRSD in its Rate Ordinance or otherwise and/or by the Receiving Utility for such materials, or as otherwise established by Interlocal Agreement dated December 2, 2015, between ECRSD and WPSS, and as amended; or that contain contaminants in concentrations exceeding limits established in Local, State, or Federal ordinances, statutes, rules,

regulations other public agencies requirements, applicable to Users, the ECRSD, and to the Receiving Entity.

7.4.2. A substance which by reason of its nature or quantity is, or may be, sufficient either alone or by interaction with other substances to create a fire or explosion hazard. Such pollutants may include, but are not limited to, gasoline, benzene, fuel oil, ethers, alcohols, peroxides, chlorates, kerosene, hydrides and sulfides.

7.4.3. Any waters or Wastes containing toxic or poisonous substances, liquids, or gases in sufficient quantity, which would either singly or by interaction with other pollutants, result in the presence of noxious or toxic gases, vapors, or fumes within the Public Sanitary Sewer in a quantity sufficient to create a public Nuisance or constitute a hazard to humans or animals, hazard to human health or to injure or interfere with any sewage treatment process to prevent entry into the sewers for maintenance, repairs, inspections, or monitoring or create any hazard in the receiving waters of the sewage treatment plant, including any Pollutant having any corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the Public Sanitary Sewer.

7.4.4. Solid or viscous pollutant, or other substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other Interference with the proper operation of the sewage works such as, but not limited to: animal guts or tissues, ashes, asphalt residues, bones, cinders, entrails, feathers, fleshlings, garbage, gas, glass, glass grinding, grass clippings, grease, hair, hides, metal, mud, paunch manure, plastics, plastic or paper dishes and cups, milk containers etc. (either whole or ground by garbage grinders), polishing wastes, rags, residues from refining, or processing of fuel or lubricating oil, sand, shavings, spent lime,

stone or marble dust, spent grains or hops, straw, tar, underground garbage, waste paper, wood, or whole blood.

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

7.4.6. Any Pollutant, which may cause the Public Sanitary Sewer's effluent or any other product of the Public Sanitary Sewer such as residues, sludge, or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a Pollutant discharged to the Public Sanitary Sewer cause the treatment to be in noncompliance with sludge use or disposal criteria, guidelines or regulations of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or State criteria applicable to the sludge management method being used.

7.4.7. Any Pollutant which may cause the Receiving Utility's treatment works to violate its NPDES Permit.

7.4.8. Storm Water, surface water, groundwater, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, and non-contact cooling water, unless specifically authorized by the ECRSD.

7.4.9. Detergents, surface-active agents, or other substances which may cause excessive foaming in the Public Sanitary Sewer.

8. AUTHORITY TO REJECT SEWAGE

8.1. The ECRSD shall have the right to reject Sewage and prohibit the discharge of rejected Sewage into the Public Sanitary Sewer, or the ECRSD may require pretreatment

of the Sewage according to its industrial pretreatment program (IPP) under the Interlocal Agreement dated December 2, 2015, between ECRSD and WPSS, and as amended, when the strength or character of the Waste is such that it could cause damage to or interfere with the operation of the Public Sanitary Sewer, or otherwise cause a violation of the rules and regulations, ordinances, or other requirements of the ECRSD or the Receiving Utility.

8.2. If any Sewage is discharged, or are proposed to be discharged, to the Public Sanitary Sewer, which waters contain the substances or possess the characteristics enumerated in Section 7 of this Sewer Use Ordinance, and which in the judgment of the ECRSD may have deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public Nuisance, the ECRSD shall upon written notice:

8.2.1. Reject the Wastes;

8.2.2. Require pretreatment to an acceptable condition for discharge to the Public Sanitary Sewer;

8.2.3. Require control over the quantities and rates of discharge; and/or

8.2.4. Require payment to cover the added cost of handling and treating the Wastes not covered by existing taxes, fines, sewer charges, or Excessive Strength Surcharges, including any surcharges imposed by the Receiving Utility.

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

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

9. ACCESSIBILITY, PERMITS AND INSPECTION

9.1. Any permits required under this Sewer Use Ordinance shall be furnished only after the completion of the Application form provided by the ECRSD. The Application forms furnished by the ECRSD will set forth the requirements necessary for obtaining the applicable permit, including the information to be provided by the applicant and any applicable Application fee.

9.2. A duly authorized employee or agent of the ECRSD, or an Inspector, bearing proper credentials and identification shall be permitted to enter upon all properties at all reasonable times for the purposes of inspection, observation, measurement, sampling, and testing pertinent and necessary to carry out the provisions of this ordinance. The ECRSD or its representatives shall have authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for Waste treatment.

9.3. As a condition of connection to a Public Sanitary Sewer, the owner shall grant a right of access easement to the ECRSD to the Septic Tank, Building Sewer, and related system and plumbing for the purpose of inspection, surveillance, sampling, and monitoring.

9.4. A duly authorized employee or agent of the ECRSD, or an Inspector, bearing proper credentials and identification shall be permitted to enter all private properties through which the ECRSD holds a duly negotiated easement for the purposes of but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

9.5. The ECRSD shall have the power to reject Sewage and discontinue services to a User who refuses to allow a duly authorized employee or agent of the ECRSD, or an Inspector, bearing proper credentials and identification to enter upon properties for the purpose of inspection, observation, measurement, sampling, and testing pertinent and

necessary to carry out the provisions of this Sewer Use Ordinance and other ordinances, Rules and Regulations, or other requirements of the ECRSD.

10. VIOLATIONS

10.1. Any Person found to be violating any provisions of this Sewer Use Ordinance shall be served by the ECRSD with written notice of violation pursuant to the terms of the Enforcement Response Plan adopted by the ECRSD, and as thereafter amended, stating the nature of the violation and providing a reasonable time limit for the satisfactory corrections thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. Nothing in this section shall limit the authority of the ECRSD to take any action, including emergency actions or other enforcement actions, without first issuing a Notice of Violation.

10.2. If a Person fails to connect according to the terms of this Sewer Use Ordinance, the Rules and Regulations, or other applicable statute, regulation or other requirement, said Person may be assessed a penalty of \$100.00 per day and the ECRSD shall have all powers to force connection, including but not limited to, all equitable powers allowed by Indiana law, and those powers found in Indiana Code § 13-26-5-2(9), as amended, or other relevant provisions. In the event that the ECRSD files a lawsuit to force connection and to collect any penalty assessed against a Person who fails to connect, the ECRSD shall recover all costs and expenses that incurs in such lawsuit, including but not limited to reasonable attorney fees.

10.3. Any User that is not in compliance with any limitations or requirements of this Sewer Use Ordinance, shall develop a compliance schedule of corrective measures to be taken in order to return to compliance. The User and the ECRSD shall work together to develop this schedule and the User shall submit this schedule to the ECRSD for review and approval. This schedule shall not exceed 9 months in length, and shall contain specific milestones determined by User and the ECRSD. If the User does not submit an acceptable schedule, the ECRSD may develop and enforce a schedule for the User. This schedule shall contain milestone dates for the commencement and completion of major events

leading to the construction and operation of additional facilities required for the User to comply with this Sewer Use Ordinance, including, but not limited to, dates relating to:

- 10.3.1. hiring an engineer,
- 10.3.2. hiring other appropriate personnel,
- 10.3.3. completing preliminary plans,
- 10.3.4. completing final plans and specifications,
- 10.3.5. executing contracts for major components,
- 10.3.6. commencing construction, sought
- 10.3.7. completing construction and startup, and
- 10.3.8. all other acts necessary to achieve compliance with this Sewer Use Ordinance.

10.4. No Person shall maliciously, willfully, recklessly or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the Sewage facilities. Any Person violating this provision shall be subject to immediate arrest under charge of disorderly conduct, criminal mischief and theft.

10.5. It shall be a violation of this Sewer Use Ordinance for any Person to tamper with or modify any pump, valve appurtenance, flow control section, meter, sampling equipment, or other equipment used by the a duly authorized employee or agent of the ECRSD, or an inspector to determine compliance with this Sewer Use Ordinance.

10.6. Any Person causing damage to the Public Sanitary Sewer, Sanitary Sewer, Sewage Disposal System or Sewage Treatment Plant, shall reimburse the ECRSD for all the damage caused to such structures. Any such Person shall pay a reasonable penalty for such damage, as well as all attorney fees and cost of collection incurred by the ECRSD.

10.7. Any Person who is found to have violated any provision of this Sewer Use Ordinance, or any orders, rules, regulations and permits issued hereunder, may be subject to a civil fine of at least One Hundred Dollars (\$100) per day, per violation, but no more than Two Thousand Five Hundred Dollars (\$2,500) per day, per violation. Each day in

which any violation shall continue shall be deemed a separate offense under this subsection. Further, any Person who shall continue any violation beyond the time limit provided for in Section 10.3, shall be guilty of a misdemeanor and on conviction thereof shall be fined in an amount not less than One Hundred Dollars (\$100) per day, per violation, but no more than Two Thousand Five Hundred Dollars (\$2,500) per day, per violation, or as otherwise allowed under Indiana law. Each day in which any such violation shall continue shall be deemed a separate offense.

10.8. The ECRSD may issue a Cease and Desist Order when the ECRSD finds that a Person has violated, or continues to violate, any permit, provision of this ordinance, order issued hereunder, or other pretreatment requirement. The ECRSD may also issue a Cease and Desist Order if the Person has failed to meet the terms and conditions of a schedule issued under Section 10.3 hereunder or if the Person's past violations are likely to reoccur. The ECRSD may issue such an order directing the User to cease all such violations. The user shall immediately comply with all requirements and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation. remedial or preventive action may include halting operations or terminating wastewater discharges until all violations have been corrected. A Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.9. Any Person violating any of the provisions of this Sewer Use Ordinance is liable to the ECRSD for any expense, loss, loss of revenue, or damage occasioned by the ECRSD by reason of such violation. Any such Person shall pay to the ECRSD, in addition to any damages such Person causes, a reasonable penalty for such damage, fines, the costs and expenses of locating the source of the violation, repairing any damage to the sewage works caused by such violation, the costs of all sampling, testing, and laboratory fees incurred by the ECRSD, engineering fees, administrative time and expense, labor, as well as all attorney fees and cost of collection incurred by the ECRSD. Such Person shall also be subject to any and all penalties that Indiana law allows the ECRSD to pursue and collect. The ECRSD may also seek any available equitable remedy under Indiana law in

response to any violation of this Sewer Use Ordinance, or otherwise necessary to enforce the terms of this Ordinance.

11. REVIEW Any person who believes himself aggrieved through a decision or action of the ECRSD in the administration of this Ordinance may appeal and seek review thereof before the ECRSD Board.

12. SPECIAL OR EXTRAORDINARY CIRCUMSTANCES The ECRSD Board is empowered to determine rates, charges, fees, and payment terms for waste water delivered to the ECRSD under any special or extraordinary circumstances. The ECRSD Board is also authorized to waive or reduce any charges under any special or extraordinary circumstances.

13. MISCELLANEOUS

13.1. Discharger's Request for Interpretation In an effort to assure fuller understanding of and compliance with the goals and objectives of this Sewer Use Ordinance, any interested party may request, in writing from the ECRSD, an interpretation or ruling on any matter covered by this Sewer Use Ordinance.

13.2. Severability If any provision, paragraph, word, section or article of this Sewer Use Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

13.3. Conflict All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Sewer Use Ordinance are hereby repealed to the extent of such inconsistency or conflict.

13.4. Ordinance in Force This Sewer Use Ordinance shall be in full force and effect from and after its passage, according to law.

13.5. Governing Effect This Sewer Use Ordinance shall be governed by and construed in accordance with the provisions of Indiana Code 13-26 concerning the Regional Sewer Districts.

ORDAINED AND ADOPTED this 14th day of December, 2016.

ELKHART COUNTY REGIONAL SEWER DISTRICT

By Scott Robinia
Scott Robinia, President

By Lynn Brabec
Lynn Brabec, Secretary

By Thomas Holtzinger
Thomas Holtzinger, Treasurer

By Verba DeMauro
Verba DeMauro, Member

By Dustin K. Sailor
Dustin Sailor, Member

By Jeff Troxel
Jeff Troxel, Member

By - Absent -
Gale Garber, Member

ATTEST:

Kristine Krueger
Kristine Krueger, Administrative Assistant