

CHAPTER 3: MUNICIPAL AND PUBLIC UTILITIES; RULES AND REGULATIONS; RATES AND CHARGES

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GENERAL PROVISIONS; RATES AND CHARGES

§ 3.01 DEFINITIONS.

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

Subd. 1. **BOARD OF COMMISSIONERS.** The Board of Water, Electric, Gas and Power Commissioners of Austin Utilities.

Subd. 2. **UTILITY.** All utility services, whether the same be publicly-owned facilities or furnished by public utility companies.

Subd. 3. **MUNICIPAL UTILITY.** Any publicly-owned utility system, including, but not by way of limitation, water, electric, gas, power, steam heat, solid waste and sewerage service.
(Ord. 37, Second Series, passed 6-18-82)

Subd. 4. **COMPANY, GRANTEE and FRANCHISEE.** Any public utility system to which a franchise has been granted by the city.

Subd. 5. **CONSUMER and CUSTOMER.** Any user of a utility.

Subd. 6. **SERVICE.** Providing a particular utility to a customer or consumer.
(^80 Code, § 3.01)

§ 3.02 FIXING RATES AND CHARGES FOR MUNICIPAL UTILITIES.

All rates and charges for municipal utilities, including, but not by way of limitation, rates for service, permit fees, connection and meter reading fees, disconnection fees, reconnection fees including penalties for non-payment if any, shall be fixed, determined and amended by the Council by resolution, except as to electric, water, gas, power and steam which are regulated by the Board of Commissioners. The resolution, containing the effective date thereof, shall be kept on file and open to inspection in the office of the Secretary of the Board of Commissioners or the City Administrator, depending on jurisdiction, and uniformly enforced.

(^80 Code, § 3.02)

§ 3.03 CONTRACTUAL CONTENTS.

Provisions of this chapter relating to municipal utilities shall constitute portions of the contract between the city or Austin Utilities, as the case may be, and all consumers of municipal utility services. Every consumer shall be deemed to assent to the same.

(^80 Code, § 3.03)

§ 3.04 RULES AND REGULATIONS RELATING TO MUNICIPAL UTILITIES.

Subd. 1. *Application, connection and sale of service.* Application for municipal utility services shall be made upon forms supplied by Austin Utilities or the city, and strictly in accordance therewith. No connection shall be made until consent has been received from Austin Utilities or the city to make the same. All municipal utilities shall be sold and delivered to consumers under the then applicable rates applied to the amount of the utilities taken as metered or ascertained in connection with the rates.

Subd. 2. *Discontinuance of service.* All municipal utilities may be shut off or discontinued whenever it is found that:

- A. The owner or occupant of the premises served, or any person working on any connection with the

municipal utility systems, has violated any requirement of the City Code relative thereto or any connection therewith;

B. Any charge for a municipal utility service, or any other financial obligation imposed on the present owner or occupant of the premises served, is unpaid after due notice thereof;

C. There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges therefor; or

D. A duly authorized employee of Austin Utilities or the city has been denied access to the premises for meter reading, inspection or repair.

Subd. 3. *Right of entry.* Employees of the city and Austin Utilities, and their designees, have the right to enter in and upon private property, including buildings and dwelling houses, in or upon which is installed a municipal utility or connection therewith, at all times reasonable under the circumstances, for the purpose of reading utility meters, for the purpose of inspection and repair of meters or a utility system or any part thereof, for the purpose of connecting and disconnecting service, and to confirm there is no sump pump or other prohibited discharge from said property into the city sanitary sewer system. The right of entry is a condition to furnishing utility service. If entry is refused, an employee may obtain an administrative search warrant to gain entry. The owner of any such property may meet the requirements of this section by contracting with a licensed plumber who is authorized to do business in the city to perform such inspection. Such plumber shall inspect the owner's property and shall complete, sign, and return an inspection form to the City, documenting the results of the inspection. The inspection form shall be furnished to the property owner or licensed plumber upon request. All costs associated with an inspection by a licensed plumber retained by the property owner under this section shall be the responsibility of the property owner. If the property is leased by Owner, the tenant in possession has a duty to authorize and cooperate with the inspection. Owners must notify their tenants of Owner's obligation under this ordinance to grant access to the City, Utilities or their designees, for purposes of performing the inspection and any deadlines by which the inspections must be completed.

Subd. 4. *Unlawful acts.*

A. It is unlawful for any person to willfully or carelessly break, injure, mar, deface, disturb or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture or appurtenance of any municipal utility or municipal utility system or commit any act tending to obstruct or impair the use of any municipal utility.

B. It is unlawful for any person to make any connection with, opening into, use or alter in any way any municipal utility system without first having applied for and received written permission to do so from the city or Austin Utilities, as the case may be.

C. It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the city or Austin Utilities for non-payment of a bill, or for any other reason, without first having obtained a permit to do so from Austin Utilities or the city, as the case may be.

D. It is unlawful for any person to "jumper" or by any means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume unmetered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.

E. It is unlawful for any person to intentionally prevent, hinder or delay an employee of Austin Utilities or the city, acting in the performance of his or her duties, from reading a utility meter, inspecting or repairing a utility system or a connection therewith or connecting or disconnecting a utility service.

Subd. 5. *Municipal utility charges a lien.*

A. Payment for service and charges provided for herein shall be the primary responsibility of the owner of the premises served and shall be billed to him or her unless otherwise authorized in writing by the tenant and owner and consented to by the city or Austin Utilities, as the case may be. Austin Utilities or the city, as the case may be, may collect the same in a civil action or, in the alternative and at the option of it, as otherwise provided in this subdivision.

B. Each charge is hereby made a lien upon the premises served. All charges which are on August 31 of each year, more than 30 days past due, shall be certified by the City Administrator to the County Auditor between October 1 and October 10 of each year, and the City Administrator, in so certifying the charges to the County Auditor, shall specify the amount thereof, the description of the premises served and the name of the owner thereof. Prior to the City Administrator certifying the charges to the County Auditor, a notice of intent to certify, in a form to be determined by the City Council, shall be delivered by United States Mail to the owner of the subject property, providing at least ten days notice of a hearing before the City Council approving that

certificate and authorizing the City Administrator to so certify the charges. The owner of the premises shall be permitted, at the time and place of the hearing, to appear and show cause as to why the charges should not be certified. The amount so certified shall be extended by the Auditor on the tax rolls against the premises in the same manner as other taxes and collected by the County Treasurer and paid to the city along with other taxes. (Ord. 603, passed 9-16-13) Penalty, see § 1.99

§ 3.05 CONNECTION OR TAPPING PROHIBITED; DELINQUENT ASSESSMENTS OR CHARGES.

No permit shall be granted to tap or connect with sewer or water mains when any assessment or connection charge for the sewer or water main against the property to be connected is in default or delinquent. If the assessment or connection charges are payable in installments, no permit shall be granted unless all installments then due and payable have been paid.

(80 Code, § 3.05)

§ 3.06 UTILITY EASEMENTS AND RIGHTS-OF-WAY.

In all cases where rights-of-way and easements have been, or may be hereinafter, acquired, either by purchase or condemnation, for the laying of any conduit, supply pipes, electric poles, wires or mains, or gas mains or other appliances or works for supplying water, electricity, and gas, as contemplated in this chapter, such rights-of-way and easements shall be paramount, and neither the said City of Austin, the County of Mower, or other county or municipal body or corporation, nor other corporation or person, shall enter thereon, use and occupy the same for any purpose other than said purpose for which said right-of-way or easement was, or may be, acquired as aforesaid, except with the consent in writing of the Board of Commissioners and upon such terms and in such manner as may be agreed upon. The Board of Commissioners is hereby authorized to make and enter into any agreement in that behalf which it may deem necessary and expedient.

(Ord. 613, passed 6-16-14)

SEWER USE AND SERVICE CHARGE

§ 3.30 RULES AND REGULATIONS RELATING TO SEWER USE AND SERVICE CHARGE.

Subd. 1. *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. **APPROVING AUTHORITY.** The Council, or its duly authorized board, agent or representative.

B. **BOD** or **BIOCHEMICAL OXYGEN DEMAND.** The quantity of oxygen expressed in parts per million by weight, utilized in the biochemical oxidation of organic matter under standard laboratory conditions in five days at 20°C. The laboratory determinations shall be made in accordance with procedures set forth in *Standard Methods*.

C. **BUILDING DRAIN.** The part of the lowest horizontal piping of a drainage system which receives waste from inside the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

D. **BUILDING SEWER.** The extension from the building drain to the public sewer or other place of disposal. Also called **HOUSE CONNECTION**.

E. **COD** or **CHEMICAL OXYGEN DEMAND.** The oxygen equivalent of that portion of the organic and inorganic matter in a sample of wastewater, expressed in parts per million by weight, that can be oxidized by a strong chemical oxidizing agent. The laboratory determinations shall be made in accordance with procedures set forth in *Standard Methods*.

F. **COLLECTION SYSTEM.** The system of sewers and appurtenances for the collection, transportation and pumping of domestic wastewater and industrial wastes.

G. **COMBINED SEWER.** A sewer intended to receive both wastewater and storm or surface water. The city has no **COMBINED SEWERS**.

H. **COMPATIBLE POLLUTANT.** Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the city NPDES permit, if the city treatment works is capable of removing the pollutants and, in fact, does remove the pollutants to a substantial degree. Examples of additional pollutants may include: chemical oxygen demand, total organic carbon, phosphorus, phosphorus compounds, nitrogen and/or nitrogen compounds.

I. **CONNECTION.** Each connection into a sewer system.

J. **CONSTRUCTION COST.** The total cost incurred in the construction of sewerage works, consisting

of, but not limited to the sums spent for the following purposes:

1. Actual sums paid for construction of wastewater treatment facilities and land acquisition;
2. Actual engineering fees paid for preliminary engineering studies, plans and specifications, services during construction, construction staking, operation and maintenance manuals and initial operator training;
3. Actual sums paid for soils investigations, wastewater sampling and materials testing required for the construction;
4. Actual fees and wages paid for legal, administrative and fiscal services required by construction of wastewater treatment facilities; and
5. Actual interest paid on the total amount financed by debt obligation for construction of wastewater treatment facilities.

K. **DEBT SERVICE CHARGE.** The total charge levied on users for purposes of paying construction costs (principal and associated interest) of obligations incurred to finance acquisition and/or construction of sewerage works.

L. **DOMESTIC WASTEWATER.** Water-borne wastes normally discharged into the sanitary conveniences of dwellings, including apartment houses and hotel, office buildings, factories and institutions, free of storm and surface water and industrial wastes.

M. **EASEMENT.** An acquired legal right for the specific use of land owned by others.

N. **FLOATABLE OIL.** Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

O. **GARBAGE.** The animal and vegetable waste resulting from handling, preparation, cooking and services of food.

P. **INCOMPATIBLE POLLUTANT.** Any pollutant which is not compatible pollutant.

Q. **INDUSTRIAL WASTES.** A distinction from domestic or sanitary wastes. The wastewater from industrial processes, trade or business.

R. **INFILTRATION.** The water entering the sanitary sewer system and service connections from the ground, through such means as, but not limited to defective pipes, pipe joints, connections or manhole walls. **INFILTRATION** does not include, and is distinguished from, inflow.

S. **INFILTRATION/INFLOW.** The total quantity of water from both infiltration and inflow without distinguishing the source.

T. **INFLOW.** The water discharged into the sanitary sewer system from such sources as, but not limited to roof leaders, cellar, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections to storm sewers, catch basins, stormwaters, surface run-off, street wash waters or drainage. **INFLOW** does not include, and is distinguished from, infiltration.

U. **MAJOR CONTRIBUTING INDUSTRY.** An industrial user of the city treatment works that:

1. Has a wastewater flow of 50,000 gallons or more per average work day;
2. Has a wastewater flow greater than 5% of the flow carried by the city system receiving the wastewater;
3. Has in its wastewater a toxic pollutant in toxic amounts, as defined in standards issued under § 307(a) of P.L. 92-500; and/or
4. Is found by the permit issuance authority, in connection with the issuance of an NPDES permit to the city treatment works receiving the wastewater, to have significant impact, either singly or in combination with other contributing industries, on the city treatment works or upon the quality of effluent from the city treatment works.

V. **NATURAL OUTLET.** Any storm sewer or surface water which overflows into a watercourse, pond, ditch, lake or other body of surface or groundwater.

W. **NORMAL STRENGTH DOMESTIC WASTEWATER.** Normal strength wastewater for the city in which the average concentration of suspended materials and five-day BOD is established at no greater than 200 parts per million by weight suspended materials and 280 parts per million by weight BOD. The COD of normal domestic wastewater shall not exceed 350 parts per million. The wastewater does not include infiltration and/or inflow, and it is composed of domestic wastewater.

X. **NPDES PERMIT.** The National Pollutant Discharge Elimination System permit held by the city. This permit, which establishes limits on quality and quantity of discharges from the city treatment works, was issued by the state and federal governments in accordance with the provisions of the Federal Water

Pollution Control Act, as amended, 33 USC 1251 *et seq.*, the "Act," §§ 402 and 405.

Y. **OPERATION AND MAINTENANCE COST.** Annual expenditures made by the city in the operation and maintenance of its sewerage works, consisting of, but not limited to the sums spent for each of the following purposes:

1. Wages and salaries of all operating, maintenance, administrative and supervisory personnel, together with all premiums paid on the wages and salaries; State Worker's Compensation Coverage, for example;
2. Actual sums paid for electricity for light and power used for wastewater collection and treatment facilities;
3. Actual sums paid for chemicals, fuel and other operating supplies;
4. Actual sums paid for repairs to and maintenance of wastewater collection and treatment facilities and the equipment associated therewith;
5. Actual sums paid as premiums for hazard insurance carried on sewerage works;
6. Actual sums paid as premiums for insurance providing coverage against liability imposed by law for the injury to persons and/or property, including death, of any person or persons resulting from use and maintenance of the sewerage works;
7. Actual sums paid for replacement of equipment within the useful life of the wastewater treatment facilities; for example, the cost to replace an electric motor or pump that fails or a broken part in a pump; and
8. Actual sums set aside in a sinking fund established to provide a future capital amount for replacement of sewerage works equipment.

Z. **PARTS PER MILLION.** A weight-to-weight ratio. The parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water. **PARTS PER MILLION** and **MILLIGRAMS PER LITER (mg/l)** shall be synonymous terms.

AA. **pH.** The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution. Neutral water, for example, has a pH value of seven and a hydrogen ion concentration of 0.000,000,1 grams/liter or 107 grams per liter.

BB. **PROPERLY SHREDDED GARBAGE.** The wastes from the preparation, cooking and dispensing of food that have been shredded to 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 (1.27 centimeters) in any dimension.

CC. **PUBLIC SEWER.** A common sewer controlled by a governmental agency or public utility.

DD. **REPLACEMENT.** Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the sewerage works to maintain the capacity and performance for which the facilities were designed and constructed. As noted above, the term **OPERATION AND MAINTENANCE COST** includes **REPLACEMENT COSTS**.

EE. **SANITARY SEWER.** A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters (infiltration/inflow) that are not admitted intentionally.

FF. **SEWAGE.**

1. The spent water of a community.
2. The preferred term is **WASTEWATER**, sometimes referred to as **SANITARY WASTE**.

GG. **SEWER.** A pipe or conduit that carries wastewater or drainage water.

HH. **SEWER SERVICE CHARGE.** The total charge levied on users for sewer service. **SEWER SERVICE CHARGE** is the sum of "user charge" and "debt service charge."

II. **SEWERAGE WORKS.** All facilities for collecting, pumping, treating and disposing of wastewater and industrial wastes.

JJ. **SLUG.** Any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

KK. **STANDARD METHOD.** The examination and analytical procedures set forth in the latest edition at the time of the analysis of *Standard Methods for the Examination of Water and Wastewater*, as prepared, approved and published jointly by the American Public Health Association, the Water Pollution Control Federation and the American Water Works Association. The **STANDARD METHODS** shall also conform to Federal Register Reprint, 40 CFR 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants"

(Oct. 16, 1973).ö

LL. **STORM DRAIN** or **STORM SEWER**. A drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

MM. **STORMWATER RUNOFF**. The portion of the rainfall that is drained into the storm sewers or storm drains.

NN. **SUMP PUMP**. A pump for disposing of storm drainage.

OO. **SUPERINTENDENT**. The Superintendent of Wastewater Facilities of the city or his or her authorized deputy, agent or representative.

PP. **SUSPENDED SOLIDS, TOTAL SUSPENDED SOLIDS** or **TSS**. Total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater or other liquids and that is removable by laboratory filtering, as prescribed in *Standard Methods for the Examination of Water and Wastewater* and referred to as **NON-FILTERABLE RESIDUE**.

QQ. **UNIT**. A unit of water is 100 cubic feet.

RR. **USER**. Any person who discharges, causes or permits the discharge of wastewater into the city's sanitary sewer system.

SS. **USER CHARGE**. A charge levied on users to recover the cost of operation, maintenance and replacement of sewerage works, pursuant to § 204(b) of the Federal Water Pollution Control Act, as amended, 33 USC 1251 *et seq.*

TT. **USER CLASS**. The division of the users by wastewater characteristic or discharge similarities (example, residential, commercial, industrial, institutional and governmental).

1. **COMMERCIAL USER**. Any establishment listed in the office of Management and Budget's Standard Industrial Classification Manual, 1972 Edition, involved in a commercial enterprise, business or service which, based on a determination by the city, discharges primarily segregated domestic wastewater or wastewater from sanitary conveniences.

2. **GOVERNMENTAL USER**. Any federal, state or local government user of the wastewater treatment facilities.

3. **INDUSTRIAL USER**.

a. Any non-governmental user of the publicly owned treatment facilities identified in the 1972 Standard Industrial Classification Manual (SICM), Office of Management and Budget, as amended and supplemented under the following divisions:

- i. Division A Agriculture, Forestry and Fishing;
- ii. Division B Mining;
- iii. Division D Manufacturing;
- iv. Division E Transportation, Communication, Electric, Gas and Sanitary Services; and
- v. Division I Services.

b. An industrial user is also defined as a user who discharges to the city sanitary sewer system any liquid wastes resulting from the processes employed in industry or manufacturing or in the development of any natural resource.

4. **INSTITUTIONAL USER**. Any establishment listed in the SICM involved in a social, charitable, religious or education function which, based on a determination by the city, discharges primarily segregated domestic wastewater or wastewater from sanitary conveniences.

5. **RESIDENTIAL USER**. A user of the treatment facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached, semi-detached and row houses, mobile homes, garden and standard apartments or permanent multi-family dwellings. Transit lodging, considered commercial in nature, is not included.

UU. **UNPOLLUTED WATER**. Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

VV. **WASTEWATER**. The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and stormwater that may be present.

WW. **WASTEWATER TREATMENT FACILITIES**. An arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with **WASTE TREATMENT PLANT, WASTEWATER TREATMENT PLANT** or **WATER POLLUTION CONTROL**

PLANT.

XX. WASTEWATER FACILITIES. The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

YY. WATERCOURSE. A natural or artificial channel for the passage of water either continuously or intermittently.

Subd. 2. Use of public sewers required.

A. It is unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under jurisdiction, any human or animal excrement, garbage or objectionable waste.

B. It is unlawful to discharge to any natural outlet within the city or in any area under city jurisdiction, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this section.

C. Except as hereinafter provided, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

D. The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may, in the future, be located a public sanitary sewer of the city, is hereby required at the owner's expense to install suitable service connection to the public sewer in accordance with the provisions of this section, within 90 days after date of official notice to do so.

E. In the event an owner shall fail to connect to a public sewer in compliance with a notice given under Subpar. D above, the city may undertake to have the connection made and shall assess the cost thereof against the benefitted property. The assessment shall be a lien against the property. The assessment, when levied, shall bear interest at the rate determined by the Council and shall be certified to the Auditor of the county and shall be collected and remitted to the city in the same manner as assessments for local improvements. The rights of the city shall be in addition to any remedial or enforcement provisions of this section.

Subd. 3. Private wastewater disposal.

A. Where a public sanitary sewer is not available under the provisions of Subd. 2, Subpar. D, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of the City/County Sanitation Code.

B. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.

C. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the City Sanitarian or the state.

Subd. 4. Building sewers and connections.

A. It is unlawful for any unauthorized person to 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 approving authority.

B. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

C. A separate and independent building sewer shall be provided for every building unless written permission for an alternative is obtained from the city. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

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

E. The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the Building and Plumbing Codes or other applicable rules and regulations of the city.

F. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary wastewater carried by the building drain shall be lifted by an approved means and discharged to the building sewer.

G. No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, sump pumps or other sources of surface runoff or ground water to a building sewer or building drain which in turn is

connected directly or indirectly to a public sanitary sewer unless the connection is approved by the approving authority. Where a sump pit exists in any such building, it shall have a pump installed; no empty pits shall be permitted. The sump shall have a permanently-installed discharge line which provides for a year-round discharge connection to the city subdrain/storm sewer system or exterior surface discharge point, or as otherwise approved by the City. Such discharge line shall consist of a rigid pipe (PVC, copper, or galvanized) discharge line inside the structure, without valving or quick connections for altering the path of discharge and, if connected to the city subdrain/storm sewer system, shall include a check valve. No discharge shall be directed so as to impact neighboring properties or any city street, sidewalk or right-of-way. The City may allow installation of a locked "winter/summer" valve in individual circumstances to abate nuisance icing where no subdrain/storm sewer and other reasonable alternative exists, only with review and express permission of the City.

H. The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Codes or other applicable rules and regulations of the city. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the approving authority before installation.

I. The applicant for the building sewer permit shall notify the approving authority when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the approving authority.

J. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the approving authority.

K. A portion of the construction cost, as well as the cost of maintaining (in the form of construction and replacement) the municipal sanitary sewer system shall be recovered by the imposition of special assessments pursuant to M.S. Chapter 429; a sewer connection or availability charge, as described herein, and as authorized under M.S. Chapter 444; through a general expenditure of city funds; or a combination of all three.

1. *Sanitary sewer permit fee.* A sanitary sewer permit fee, as determined from time to time by the City Council, shall be collected when a user connects to the existing infrastructure and receives the benefit of the downstream sanitary sewer system, lift stations and waste water treatment plant. The fee structure will be based on a residential equivalent unit (REU). The City Engineer shall determine the appropriate REU of the user based upon factors that may include the property's classification as an industrial, commercial, nonresidential or residential property, or similar factors.

2. *Sewer lateral development charges.* A sewer lateral development charge, as determined from time to time by the City Council, shall be collected when a user connects to that portion of a public sewer system that has been extended from a point on the existing sanitary sewer collection system where the extension has not been paid for by a private developer or through prior assessments. Before a permit shall be issued, the city shall determine that one of the following conditions exists:

- a. The lot or tract of land to be served by such connection has been assessed for the cost of construction of the sanitary sewer main with which the connection is made;
- b. If no special assessment has been levied for such construction costs, the proceedings for levying the special assessment will be completed in due course;
- c. If no special assessment has been levied, and no special assessment proceedings will be completed in due course, a sum equal to the portion of cost of construction of the sanitary sewer main which would be assessable against said lot or tract has been paid to the city;
- d. The cost of construction of the sanitary sewer main with which the connection is made has been paid for by the owner of the lot or tract of land to be served by the connection, or by any developer as part of the creation of said lot or tract; or
- e. If none of the above conditions are met, no permit to connect to any sanitary sewer main shall be issued unless the applicant shall pay a sewer lateral development charge, determined from time to time by the City Council, to be the just and equitable charges for the use and availability of the sewer facilities and connections with them, such charges to be determined by the City Engineer and the City Council to be as nearly as possible proportionate to the cost of furnishing the service.

3. *Sewer service charge.* A sewer service charge, as determined from time to time by the City Council, shall be collected when a user connects to the dedicated sewer service that has been extended from the sewer main to within ten feet of his or her property line of a designated lot. Before a permit shall be issued, the city

shall determine that one of the conditions identified in K(2)(a) through K(2)(e) above exists.
(Ord. 620, passed 7-21-14)

Subd. 5. *Use of the public sewers.*

A. It is unlawful for any person to discharge or cause to be discharged any unpolluted waters such as stormwater, ground water, roof runoff, subsurface drainage or cooling water to any sewer. Stormwater runoff from limited areas, which may be polluted at times, may be discharged to the sanitary sewer by permission of the approving authority.

B. Stormwater other than that exempted under Subpar. A above and all other unpolluted drainage shall be discharged to sewers as are specifically designated storm sewers or to a natural outlet approved by the approving authority and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the approving authority and in accordance with the provisions of state and federal regulations, to a storm sewer or natural outlet.

C. It is unlawful for any person to discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any pollutants that causes interference within the collection system or pass through or interference at the wastewater treatment facilities;

2. Any pollutant that would directly or indirectly result in a violation of the city's NPDES permit;

3. Any trucked in waste except at discharge points designated by the approving authority;

4. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas or any pollutant that creates a fire or explosion hazard in the collection system or at the wastewater treatment facilities including but not limited to waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21;

5. Pollutants that result in the presence of toxic solids, liquids, gases, vapors or fumes in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, result in a violation of state or federal water quality standards or create any hazard in the collection system, wastewater treatment facilities or the receiving waters;

6. Any waters or wastes having a pH lower than 5.5, or higher than 9.5, or having any other corrosive property, capable of causing damage or hazard to structures, equipment and personnel of the collection system or wastewater treatment facilities (exceptions may be granted by the approving authority for short duration flows where it has been or can be shown that high or low pH would not cause any significant wastewater process problems);

7. Solid or viscous pollutants in amounts or of a size causing obstruction to the flow in sewers or interference with the operation of the wastewater treatment facilities such as, but not limited to ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers and the like, either whole or after passage through garbage grinders;

8. Wastewater having a temperature higher than 105 degrees Fahrenheit or 65 degrees Celsius or heat in amounts that will inhibit biological activity at the wastewater treatment facilities resulting in interference but in no case heat in such quantities that the temperature at the headworks of the wastewater treatment facilities exceeds 104 degrees Fahrenheit or 40 degrees Celsius unless the Minnesota Pollution Control Agency upon request of the approving authority approves alternative temperature limits;

9. Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference with the collection system, or interference or pass through at the wastewater treatment facilities or in concentrations greater than 25 milligrams per liter;

10. Any pollutant including oxygen demanding pollutants such as biochemical oxygen demand released in a discharge at a flow rate or pollutant concentration that will cause pass through or interference at the wastewater treatment facilities;

11. Any garbage that has not been properly shredded (garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or consumption elsewhere when served by caterers); and

12. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition

deleterious to structures and treatment processes.

D. The following described substances, materials, waters, or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream or will not otherwise endanger lives, limb, public property or constitute a nuisance. The approving authority may set limitations lower than the limitations established in the regulations below if, in its opinion, the more severe limitations are necessary to meet the above objectives. In forming the opinion as to the acceptability, the approving authority will give consideration to the factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the approving authority are as follows:

1. Wastewater from industrial plants containing floatable oil, fat or grease, in excess of concentrations permitted by the approving authority;
2. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to a degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for the materials;
3. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the approving authority;
4. Any radioactive material of a half-life or concentration as may exceed limits established by the approving authority or applicable state and federal regulations;
5. Quantities of flow, concentration or both, which constitute a slug, as defined herein; and
6. Waters or waste containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to a degree that the wastewater treatment facilities effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

E. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Subpar. D of this subdivision, and which in the judgment of the approving authority may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the approving authority may:

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewer;
3. Require control over the quantities and rates of discharge; and/or
4. Require payment to cover added cost of handling and treating the wastes not covered by existing taxes or service charges. If the approving authority permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the approving authority.

F. Grease, oil and sand interceptors shall be provided when, in the opinion of the approving authority, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Subpar. D, Item 3 hereof, or any flammable wastes, sand or other harmful ingredients, except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the approving authority and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the approving authority. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.

G. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner, at his or her expense.

H. When required by the approving authority, the owner of any property serviced by a building sewer carrying industrial or domestic wastewater shall install a suitable structure together with the necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the

wastes. The structure, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the approving authority. The structure shall be installed by the owner, at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

I. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this section shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association. Sampling methods, location times, durations and frequencies are to be determined on an individual basis subject to approval by the approving authority.

J. New connections to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities, including, but not limited to capacity for flow, BOD and suspended solids.

K. It is unlawful for any person, unless authorized, to uncover, make any connection with or opening into, use, alter or disturb any sanitary or storm sewer within the city or any part of the city wastewater facilities.

L. No sanitary or storm sewers shall be constructed in the city, except house or building service sewers, except by the city or by others in accordance with plans and specifications approved by a professional engineer. No sewers shall be constructed or considered to be part of the public sewer system unless accepted by the city.

M. The size, slope, alignment, material of construction, methods to be used in excavation, placing of pipe, jointing, testing, backfilling and other work connected with the construction of sewers shall conform to the requirements of the city.

N. *Individual control mechanism agreement.*

1. The city may require industrial users discharging waste water into the city wastewater treatment system to enter into an individual control mechanism agreement. The city shall not require an agreement if the Director determines that the waste water has an insignificant impact to the city's system. Entering into an individual control mechanism agreement shall not relieve the industrial user from any obligation to obtain any hazardous waste license required by other authorities or to comply with any other local, state, or federal requirements regarding waste disposal. The criteria utilized by the Director to determine if an individual control mechanism agreement will be required include:

- a. An average flow loading greater than 25,000 gallons per operating day;
- b. Has prohibitive discharge properties;
- c. Has been pretreated or passed through an equalization tank before discharge;
- d. A hydraulic or organic loading greater than 5% of the average dry weather capacity of the WWTF;
- e. An industrial process regulated by EPA categorical standards; or
- f. Others as designated by the city as defined in 40 CFR 402.12(a).

2. Among other things, the individual control mechanism agreement shall include those requirements provided for in Subd. 5, Subpar. E above as may be required by the approving authority.

3. The city may require that the industrial user provide compliance schedules and reports as the Director deems necessary to determine that the industrial user has complied with this subdivision and any requirements set forth in the individual control mechanism agreement.

4. Outlying jurisdictions entering into individual control mechanism agreements with the city shall be responsible for implementing a pretreatment program that complies with the requirements of Chapter 3 of the City Code.

5. At a minimum each individual control mechanism agreement shall contain the following conditions:

- a. A statement of duration, which must be no more than five years;
- b. A statement of non-transferability without, at a minimum, prior notification to the POTW authority and provisions of a copy of the existing control mechanism to the new owner or operator;
- c. Effluent limits, including best management practices, based on applicable required pretreatment standards in Minnesota Rules, part 7049.0650;
- d. Self-monitoring, sampling, reporting, notification, and record keeping requirements, including an identification of the pollutants to be monitored, including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge according to Minnesota Rules, part 7049.0570, subpart 3, or a specific waived pollutant in the case of an individual control mechanism; sampling location; sampling frequency; and sample type, based on the applicable required pretreatment standards as specified in Minnesota Rules, part 7049.0650;
- e. A statement of applicable civil and criminal penalties for violation of required pretreatment

standards and requirements and any applicable compliance schedule. The schedule may not extend the compliance date beyond applicable federal deadlines; and

f. Requirements to control slug discharges, if determined by the POTW to be necessary.

6. The individual control mechanism agreement shall require that categorical industrial users must comply with the national categorical standards of the Environmental Protection Agency of the U.S.; further must require that industrial users must comply with all federal and state pretreatment rules and regulations. (Ord. 597, passed 9-17-12)

Subd. 6. *Protection from damage.*

A. It is unlawful for any person to maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities.

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

Subd. 7. *Powers and authority of inspectors.*

A. Duly authorized employees of the city, and its designees, bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to any public sewer or natural outlet in accordance with the provisions of this section. Sampling pertaining to industry will reflect the number of days an industry is not operating as well as the days in operation and discharging waste to a public sewer. The owner of any dwelling, building, or other structure shall have a period of thirty (30) days from the date the city sends a written notice to the owner requesting admittance to the owner's property for an inspection, to either allow a city inspection of the property, or to contract with a licensed plumber to perform the inspection, and notify the city of the results thereof. Such inspection, whether performed by the city inspector, or by the licensed plumber hired by the property owner, shall be completed within said thirty (30) day period. Upon completion of a city inspection of a property, or upon the city's receipt of an inspection form from the licensed plumber hired by the owner of the property, if the city shall determine whether any such property is improperly discharging storm water into the city sanitary sewer system, then the owner shall have a period of ninety (90) days from the date the city sends such written notice to the owner, to obtain a plumbing permit, and to disconnect the owner's sump pump or other prohibited discharge into the city sanitary sewer system, and to request re-inspection, certifying that all work necessary to disconnect the owner's sump pump or other prohibited discharge from said property into the city sanitary sewer system has been completed. All work that is necessary to comply with the provisions of this division which requires the issuance of any plumbing, building, or other permit under this code shall be inspected by the city inspection services division for compliance with all applicable city code requirements. If Owner leases the subject property, Owner has a duty to provide these notices to every tenant of the property. No lease or other contract purporting to shift maintenance or repair obligations to a tenant shall relieve Owner's obligations to the City to comply with these regulations. Tenants in any property within the City have an obligation to cooperate with the Owner and the City, Utilities and their designees with respect to the completion of any required inspections or necessary modifications.

B. The approving authority or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system.

C. While performing the necessary work on private properties referred to in Subpar. A above, duly authorized employees of the city shall observe safety rules applicable to the premises established by the company, the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims or demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operations, except as such may be caused by negligence or failure of the company to maintain safe conditions, as required in Subd. 5, Subpar. H.

D. Duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city 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 wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

E. *Confidential information.*

1. User information obtained from reports, questionnaires, permit applications, permits, monitoring programs, and from inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate that the release of the information would divulge information, processes, or methods of production entitled to protection as trade secrets.

2. 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 upon written request to governmental agencies for uses related to this subdivision, the NPDES permit, state disposal system permit, and/or the pretreatment programs, provided that the portions of a report shall for 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.

3. Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the Director until and unless a ten day notification is given to the user.

(Ord. 597, passed 9-17-12)

Subd. 8. *Penalties.*

A. *Administrative fines.* Notwithstanding any other subdivision of this section, any user who is found to have violated any provision of this section, individual control mechanism agreements, or permits and orders issued hereunder, shall be fined in an amount not to exceed \$1,000 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute the fines must file a request for the City Finance Director to reconsider the fine within ten days of being notified of the fine. When the City Finance Director believes a request has merit, the Finance Director shall convene a hearing on the matter within 30 days of receiving the request from the industrial user.

B. *Criminal penalties.* Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be furnished by a fine of not more than \$1,000, or by imprisonment for not to exceed 90 days, or both.

C. *Costs.* In addition to the penalties provided herein, the city may recover court costs, court reporter's fees and other expenses of litigation by an appropriate action against the person found to have violated this section or the orders, rules, regulations, and permits issued hereunder.

D. *Costs of damage.* Any person violating any of the provisions of this section shall become liable to the city for any expense, loss, or damage. The Director may add to the user's charges and fees the costs assessed for any cleaning, repair, or replacement work caused by the violation or discharge. Any refusal to pay the assessed costs shall constitute a violation of this section.

E. *Falsifying information.* Any person who knowingly makes false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this section, or an individual control mechanism agreement, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this section, shall upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than 90 days, or both.

(Ord. 597, passed 9-17-12)

Subd. 9. *Sewer service charges.*

A. Persons discharging wastewater to the city sanitary sewer system in accordance with the provisions of this section shall be charged monthly on the basis of the volume and strength of wastewater discharged. The monthly service charge will include a user charge component (to meet all costs associated with operation, maintenance and replacement of the wastewater collection and treatment facilities) and a debt retirement component (to meet facility construction costs). The actual service charge shall be based upon four cost causative elements: flow, BOD, suspended solids and administration. Administration costs shall include all costs (such as billing costs, insurance costs and infiltration/inflow related costs) that are judged to be equitably recovered on a uniform monthly minimum or connection type charge. That is, administration costs are not a variable among various users since these costs are not a function of the amount of wastewater discharged by a particular user.

B. As an equitable share of the expenses incurred by the city in the construction, administration, operation, maintenance and replacement of the sewerage works, each user will pay to the city a monthly amount based upon the following formula:

$$A = M + (f)(F) + (b)(B) + (ss)(S) + R + \text{I/I Surcharge}$$

1. **A** = Service charge to user, with units of \$/month.
2. **M** = Average city per connection cost for administration
3. **f** = Average city unit cost of wastewater collection and treatment, with units of \$/100 cubic feet.
4. **F** = Volume of wastewater from user with units of 100 cubic feet per month (often assumed equal to metered water usage).
5. **b** = Average city unit cost of wastewater treatment chargeable to BOD, with units of \$/lb of BOD.
6. **B** = Weight of BOD contributed by user, with units of lb BOD per month.
7. **SS** = Average city unit cost of wastewater treatment chargeable to suspended solids, with units of \$/lb suspended solids.
8. **S** = Weight of suspended solids contributed by user, with units of pound of SS per month.
9. **R** = Monthly amount of required federal grant repayments, in accordance with regulations applying to grant funds received by the city. **R** = zero for non-industrial users and may also equal zero for industrial users, depending upon applicable federal regulations.

10. **I/I Surcharge** = Any owner who fails to comply with the requirements of this code relating to prohibited clear water discharge to sanitary sewer shall pay a monthly surcharge on the property owner's city sewer bill in the amount of \$100.00 per month. Said surcharge shall commence on the first day of the month following the expiration of the thirty (30) day period set forth for inspections, or the ninety (90) day period set forth for correction of deficiencies, as applicable, when either the property owner has failed to timely allow a city inspection or has failed to timely correct any illegal connections to the city sanitary sewer system. Such surcharge shall continue to be imposed on the owner's city sanitary sewer bill for as long as the property owner continues to own the property without complying with the requirements of this code. This monthly surcharge is intended to offset the added cost to the city associated with having the city wastewater collection, conveyance, and treatment system process clear or clean water (Inflow/Infiltration) unnecessarily, when the status of the property owner's connection or non-connection to the city sanitary sewer system cannot be ascertained, or when the owner has failed to timely disconnect any discharge of storm water to the city sanitary sewer system.

C. Average city unit costs shall be computed annually and shall include operation and maintenance costs, including replacement costs, and annual construction costs. Costs shall be distributed initially as follows:

<i>Cost Causative Element</i>	<i>Debt or Construction</i>	<i>Operation and Maintenance</i>
Flow	40%	34%
BOD	25%	16%
Suspended solids	35%	35%
Administration	Zero	15%
Total	100%	100%

1. This distribution will be applied annually until changes in the actual cost revenue pattern render another distribution more equitable.
2. Initial unit cost figures for the service charge will be established by Council resolution. Computations supporting unit cost figures (f, b and SS) and service charges shall be revised annually.
3. Industrial cost recovery figures are not applicable at the date of enactment of this section.
4. All users discharging normal strength domestic wastewater shall be billed a fixed amount $\$M$ per month per sewer connection (to cover administrative and infiltration/inflow related costs), plus a fixed rate per 100 cubic feet of metered water used. Minimum billing shall be $\$M$ per month, per sewer connection. The value of $\$M$ will be established by Council resolution.
5. All users discharging wastewater with a strength lower than that of normal strength domestic wastewater shall be billed for a normal strength domestic wastewater discharge. That is, no allowances will be made in billing users that discharge a diluted or low strength wastewater.
6. All users which discharge wastewater above the normal strength of domestic wastewater shall be billed at the rates shown in the unit cost figures established by Council resolution. Industrial users that discharge above normal strength domestic wastewater shall be billed monthly based upon the volume of

wastewater, the pounds of BOD and the pounds of suspended solids discharged. Monthly bills shall be computed as follows:

$$\text{Service Charge} = \text{"M"} + \text{f(Monthly flow)} + \text{b(lb BOD/month)(lb SS/month)}$$

a. **f, b** and **SS** have the meaning noted in Subpar. B and values as established by Council resolution.

7. Each user of the city sewer system that does not have a metered source of water must install an accurate water or wastewater flow metering device (at user's expense) that will serve as a basis for estimating the volume of wastewater discharged and determining the sewer service charge.

8. All users of city water that is not discharged to the city sanitary sewer system may install a separate water system and meter (one only in the same building as the main meter) to isolate and meter non-sewered water for which no service charge is required. If, at any time after this independent system is installed, water from this system enters the sanitary sewer system, the user shall be subject to the penalties of Subd. 8 and shall be ordered to eliminate the independent system if this violation is continued.

9. If necessary, the federal grant funds received by the city for purposes of treating industrial wastewater shall be recovered by the city during the treatment facility service life. Cost recovery amounts shall be shown as a specific portion of the regular sewer service billing received by the industry, when and if the amounts are required by federal grant regulations.

10. In no case will an industrial user's monthly bill be less than \$5.00 per sewer connection, plus the fixed normal strength domestic wastewater rate/100 cubic feet of wastewater discharged. Computations used in the development and subsequent adjustments of all of the above mentioned rates are on file in the City Engineer's office and are available for review.

D. To insure the required financial surveillance, the City Administrator shall annually review the cash flows associated with providing wastewater treatment service for the city and shall report the findings to the Council at the first April meeting of each year. Any inequities and/or shortages of revenue caused by unforeseen changes in the cost revenue pattern of the wastewater treatment facilities shall be remedied immediately by a Council resolution adjusting the unit cost figures. Adjusted unit figures shall be computed in accordance with the principals of this subdivision.

E. Wastewater service charges provided for in this section shall be included as a separate item on the regular bill for water. Charges shall be paid at the same time that the water charges of the person become due. The city shall annually notify all users what portion of the service charge is necessary to meet the operation, maintenance and replacement costs (user charge) and what portion is necessary to meet long term debt (debt service charge).

F. Chapter 3, §§ 3.01 through 3.05, shall apply for failure of any person to pay monthly bills for the established sewer service charge when due or repeated discharge of prohibited waste to the city sanitary sewer system.

G. The Council may, by resolution, adopt a policy for excluding summer season non-sewered water usage (residential lawn and garden irrigation water) from the volume utilized in computing the residential sewer service charge.

(Ord. 19, Second Series, passed 1-1-82)

Subd. 10. *Applicability.* This section shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the city wastewater treatment facility.

(Ord. 597, passed 9-17-12)

Subd. 11. *Remedies.*

A. *Remedies available.* The Director may suspend the sewer system when the suspension is necessary, in the opinion of the Director, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, the environment, or the city wastewater treatment system, or would cause the city to violate any condition of the NPDES or state disposal system permit. Any user notified of a suspension of the sewer system service shall immediately stop the discharge. In the event of a failure of the user to comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the city wastewater treatment system or endangerment to any individuals. The Director shall reinstate the sewer system service upon proof of the elimination of the noncomplying discharge.

B. *Notification of violation.* Whenever the Director finds that any person has violated or is violating this section, has breached an individual control mechanism agreement or any prohibition, limitation or requirement contained herein, the Director may serve upon such person a written notice stating the nature of the violation.

Within ten days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user.

C. *Show cause hearing; notice of hearing.* If the violation is not corrected by timely compliance, the Director may order any user which causes or allows any unauthorized discharge to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 14 days before the hearing. Service may be made on any agent or officer of a corporation.

1. *Hearing officials.* The City Council may itself conduct the hearing and take the evidence, or may designate any of its members, administrative law judges, or any officer or employee of the (assigned department) to:

a. Issue in the name of the city notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearings;

b. Take the evidence; and

c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.

2. *Transcripts.* At any hearing held pursuant to this subdivision, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

3. *Issuance of orders.* After the City Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

D. *Legal action.* If any person discharges wastewater, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this section, federal or state pretreatment requirement or any order of the city, the City Attorney may commence an action for appropriate legal and/or equitable relief.

(Ord. 597, passed 9-17-12)

Subd. 12. *Publication of significant violations.* Public notification will occur at least annually in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the WWTF of industrial users which, at any time during the previous 12 months, were in significant violation of applicable pretreatment standards or pretreatment requirements. For the purpose of this provision, an industrial user is in significant violation if its violations meet one or more of the following:

A. Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken during a six month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

B. Technical review criteria (TRC) violations, defined here as those in which 33% or more of all the measurements taken for the same pollutant parameter during a six month period equal or exceed the product of a number pretreatment standard or requirement, including instantaneous limits times the applicable TRC (TRC = 1.4 for CBOD, SS, fats, oil and grease and TRC = 1.2 for all other pollutants except pH);

C. Any other violation of a pretreatment (daily maximum or longer term average, instantaneous limit or narrative standard) that the Director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city employees or the general public);

D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment and has resulted in the necessity for the city to exercise its emergency authority under 40 CFR 403.8 (F)(1)(vii)(b) to halt or prevent such a discharge;

E. Violation, by 90 days or more after the schedule date, or a compliance schedule milestone contained in a local control mechanism or enforcement order, for starting construction, completing construction, or attaining final compliance;

F. Failure to provide required reports such as baseline monitoring reports, self-monitoring reports, and reports on compliance with compliance schedules, within 45 days of the due date;

G. Failure to accurately report noncompliance; or

H. Any other violation or group of violations, which may include a violation of best management practices which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

(`80 Code, § 3.30) (Ord. 597, passed 9-17-12) Penalty, see § 1.99

§ 3.31 STORMWATER DRAINAGE CONNECTION AND AVAILABILITY CHARGE.

Subd. 1. *Stormwater drainage utility.* A stormwater drainage utility for the city is hereby established. The municipal storm sewer system shall be operated as a public utility pursuant to M.S. § 444.075, as it may be amended from time to time, from which revenue will be derived subject to the provisions of this chapter and to Minnesota Statutes. The stormwater drainage utility will be a part of the public works department and under the administration of the director of public works.

Subd. 2. *Purpose of funds derived and allocation of revenue.* The purpose of all funds derived is to pay for all or part of the construction, reconstruction, repair, enlargement, improvement or other obtainment and the maintenance, operation and use of the storm sewer utility as established by the city. All revenues derived from the fee shall be credited to the appropriate storm sewer fund.

Subd. 3. *Storm sewer utility fee.*

A. A storm sewer utility fee for connection and availability of the storm sewer facilities shall be determined by resolution of the Council and shall be just and equitable. A charge for the connection and availability of storm sewer service may be imposed for all premises abutting on streets or other places where municipal storm sewers are located, whether or not connected to them. A charge for the availability and connection to the storm sewer service may, in the discretion of the Council, be fixed by reference to the portion of the cost which has been paid by assessment of the premises.

B. A storm sewer utility fee for use of the storm sewer facilities shall be determined by resolution of the Council and shall be just and equitable. Charges made for the use of the facilities may be fixed on the basis of water consumed, or by reference to a reasonable classification of the types of premises to which the service is furnished, or by reference to the quantity, pollution qualities and difficulty of disposal of the water, or in any other equitable basis including, but without limitation, any combination of those referred to above.

Subd. 4. *Adjustments.* The Council may adopt, by resolution, policies and standards for the adjustment of the fee for parcels. Such adjustments shall not be made retroactively.

Subd. 5. *Exemptions.* Undeveloped land, railroads, and city owned land are exempt from the fees established in Subdivision 3, Subparagraph B, above.

Subd. 6. *Billings.* Bills for the charges for the fee shall be made and collected by the Austin Utilities. All bills shall be payable at the office of Austin Utilities.

Subd. 7. *Recalculation of fees.* If a property owner or person responsible for paying the fee questions the correctness of such charge, that person may have the determination of the charge recomputed within six months of mailing, by submitting to the director of public works a written request for the recomputation.

Subd. 8. *Municipal utility charges a lien.*

A. Payment for service and charges provided for herein shall be the primary responsibility of the owner of the premises served and shall be billed to him unless otherwise authorized in writing by the tenant and owner and consented to by the city or Austin Utilities, as the case may be. Austin Utilities, or the city, as the case may be, may collect the same in a civil action or, in the alternative and at the option of it, as otherwise provided in this subdivision.

B. Each such charge is hereby made a lien upon the premises served. All such charges which are on September 30 of each year more than 30 days past due, shall be certified by the City Administrator to the County Auditor between October 1 and 10 of each year, and the City Administrator in so certifying such charges to the County Auditor shall specify the amount thereof, the description of the premises served, and the name of the owner thereof. The amount so certified shall be extended by the Auditor on the tax rolls against such premises in the same manner as other taxes, and collected by the County Treasurer, and paid to the city along with other taxes.

(Ord. 495, Second Series, passed 5-19-03)