



City Council Work Session
Tuesday, October 18, 2022 at 6:00 PM
Public Meeting Room

AGENDA

- 1. Call to Order**
- 2. Items for Discussion**
 - A. Homeless Persons and Encampments
 - B. Utility Billing Internal Audits and Adjustments
 - C. City Code of Ordinances Chapter 28 - Water and Sewers Updates
 - D. Review Proposed Job Description Revisions
- 3. Future Discussion**
- 4. Adjournment**

(The Council may meet as a group for dinner)

Please contact the City Administrator's Office if you need special accommodations while attending this meeting



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Tim Murray, City Administrator
FROM: John Sherwin, Chief of Police
MEETING DATE: October 18, 2022
SUBJECT: Homeless Persons and Encampments

Discussion:

In recent months, the Police Department has noticed an increase in individuals experiencing homelessness congregating and establishing encampments on City-owned land in various locations along the Straight River. Encampments range in size from individual camp sites to more than 5 persons.

The Police Department recognizes that homelessness is not a crime. Individuals experiencing homelessness are often vulnerable and in need of resources and assistance. Encampments can further exacerbate welfare concerns for inhabitants. Observations of Faribault homeless encampments show the following conditions that cause health and environmental concerns:

- Unattended fires
- Spoiled food
- Trash/Debris w/ mold
- Drug paraphernalia
- Items being used as shelter not intended for that purpose (tarps, scrap plywood, pallets)
- Suspected stolen property

In addition, one camp site was located having sustained a fire that burned a temporary shelter and personal items. This fire was unreported. Fortunately, no extension of the fire was observed to surrounding vegetation and woodlands. This is of particular concern given the relative close proximity of these camps to surrounding neighborhoods and parkland. Fire is of particular concern, as camps are frequently found to have unattended camp fires by officers on patrol.

Clearing of encampments by local governments in other areas of Minnesota has resulted in special scrutiny by the courts. Because of the special legal considerations involved, the police department and city attorneys have

worked on developing policies and procedures that address these concerns. Policy drafts will be provided for Council review during the Work Session.

The Police Department has also worked to establish partnerships with local service providers to provide resources and referrals to encampment residents. Any cleanup effort will be led by the Police Department in coordination and consultation with Faribault Parks and Recreation, Fire, and Public Works.

The purpose of this agenda item is to seek Council input and direction regarding homeless encampments.

Attachments:

1. Homeless Encampments



Homeless Persons and Encampments

Faribault Police Department

October 18, 2022

The concern:

- Homeless encampments on city property are presenting a welfare concern for camp inhabitants.
- Homelessness is not a crime.
- Existing case law within Minnesota requires special recognition of the Constitutional and property rights of the homeless, particularly when encampments are found on public property.



Observations:

- Patrol Officers have had frequent contact with encampment residents throughout the summer/fall.
- Health and Environmental concerns have been noted, including:
 - Unattended fires
 - Spoiled food
 - Trash/Debris
 - Drug Paraphernalia
 - Suspected stolen property
 - Unsafe temporary structures



Example Photos



Example Photos



Example Photos



Policy Options

- City Policy on encampment cleanup
- PD Policy related to homeless persons





Questions???



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Tim Murray, City Administrator
FROM: Jeanne Day, Finance Director
MEETING DATE: October 18, 2022
SUBJECT: Utility Billing Internal Audits and Adjustments

Discussion:

Finance has been asked to bring examples of utility billing adjustments to this work session as a Council Member has recently received three complaints regarding adjustments.

We have recently been conducting internal audits on utility billing accounts to assure the accuracy of billing. This will be an on-going process over the next year as there are over 7,700 accounts to be reviewed. There has been significant turnover in staff in Finance over the past few years, which is part of the reason for the internal audit, in addition to the fact that periodic detailed review is good practice. Utility billing is a complex process with a lot of moving parts and takes some time to thoroughly understand setup and billing processes. Current staff in place is doing an excellent job of analyzing accounts whenever they are looked at for any reason (finals, change in mailing address, etc.) to eliminate errors.

It is current practice that when errors are found, they are back billed for three (3) years although State Statute allows for back billing of up to six (6) years. This was discussed with Council in May 2021 while discussing an internal Utility Billing Policy.

The following is a quick summary of the types of billing adjustments or back billings that may occur. Individual letters explaining the discovery and reasoning behind adjustments are sent with the billing to any affected customers. Along with the explanation, the letter does offer payment arrangements if needed. This is by no means a complete list of billing adjustments, but are some of the most common.

Storm Water RLE Corrections – It was recently discovered that when new customers were being set up, the special multiplier that is used in the calculation of storm water was not being carried over to the new customer. This is an automated process within Springbrook software and

the utility billing setup for the module simply did not have a box checked called "copy special multipliers." This setup in the software has now been corrected. This caused new customers to be set up with one RLE rather than carrying forward what engineering had calculated for the parcel. These accounts have been in the process of being reviewed for finals a year at a time in order to determine any incorrect billings. In the past four months, 61 accounts have been discovered with this error and back billings of \$72,589.58 have been made. The majority of these accounts have been commercial/industrial type accounts. Of the 61 adjustments, four customers have contacted Utility Billing with questions and/or concerns about the adjustment and one adjustment has not yet been made. Finance is still in the process of thoroughly reviewing accounts for this type of error that occurred in the past. The change in setup to the utility billing software should eliminate any errors of this type going forward.

In addition, another example of back billing or credit for storm water may occur when a change in use occurs to a property. For example, a parking lot has been expanded on what used to be green space and now has created more impervious surface. Another example would be additional structures being constructed or removed from a parcel, again causing a change in impervious surface. There are times these changes are not communicated to Utility Billing by other departments, and if caught by Finance it is by accident. In the future, a process for communicating these types of changes to Utility Billing needs to be put in place.

Change in Accounts with Water or Sewer Only – There are approximately eleven (11) utility billing accounts that are billed for water only and approximately fifty (50) utility billing accounts that are billed for sewer only. Finance recently met with Public Works to review these accounts. After Public Works review, it was determined that eleven (11) accounts should be billed for sewer that are not. This will require back billing for those accounts. The final amount has not yet been determined, but is estimated to be at approximately \$8,583.28. The most frequent scenario causing this is new construction that has caused the hookup to occur, but was not communicated to Utility Billing. There could also be some other reason that the service is connected. Going forward, a process will need to be determined to define who and how communication of these changes will get to Utility Billing. In addition, Utility Billing is now providing a monthly list of water and sewer only accounts for Public Works review.

Irrigation Meters – A large portion of commercial irrigation meters are both installed and removed by a third-party property manager. When the meters are reinstalled in the summer, it is not always communicated that the irrigation meter has been reinstalled. This results in zero consumption being billed for the summer months rather than actual consumption. There were approximately five accounts in the summer of

2021 and a few this summer, that Utility Billing was not aware that the meters had been reinstalled. This results in having to back bill these customers. A procedure should be established with Public Works to notify Utility Billing when these meters are removed and reinstalled.

Meter Read Failures – The city uses an automated meter reading system through Sensus. When radios are not communicating or there is a register problem, Utility Billing estimates these accounts. Once an actual reading is received on the meter, this may cause a back bill for usage that was not billed or the issuance of a credit if estimates were too high.

New Customer Setup - When a new customer is set up for a completely new service address, all services/rates associated with the setup (i.e. water, sewer, storm penalty, lead) need to be setup on the account. Very rarely, a service or rate might be missed, causing a back bill, but this is very infrequent in nature. A feature within the current software is the ability to setup account templates which can define which services and rates should be set up for a specific type of customer (for example, residential versus commercial). Finance will be exploring better use of this feature within the software to eliminate the potential of this type of error.

Multiple Meter Installations at Same Address – Occasionally, meters are installed for the same service address for one or more units (i.e. two apartments, etc.). Occasionally, meter installations are submitted to utility billing with the wrong meter assigned to the wrong unit. This will often result in requests for billing adjustments if a leak has occurred in one unit or the other, or a tenant has moved out of a unit.

Meter Information Incorrect – New meter installations with a new style of meter are not communicated with the correct multiplier. If correct multipliers (i.e. a tenth of a gallon, one gallon, 10 gallons, etc.) are not communicated properly upon installation, it results in billing corrections.

Leaks or High Consumption – Adjustments may be done for leaks or high consumption on a one-time basis for the sewer portion of the bill if it has been proven by the customer that the issue has been fixed.

Attachments:

1. 2022 RLE Correction Summary
2. Sewer Connections
3. Misc Examples of Corrections

Account	Connect		RLE	Correct RLE	Total
	Date				
009267-002	6/22/2018	1.00	8.32		1,431.93
018309-002	10/1/2019	1.00	4.37		629.92
020597-002	5/1/2019	1.00	13.11		2,368.96
022406-000	8/1/2018	1.00	1.97		189.76
022413-000	7/31/2018	1.00	21.23		3,957.39
022413-001	7/31/2018	1.00	14.35		2,611.52
022416-000	8/1/2018	1.00	22.14		4,135.42
022772-000	2/1/2019	1.00	24.55		4,606.84
022773-000	2/11/2019	1.00	22.53		4,211.72
022845-000	4/3/2019	1.00	23.07		4,317.31
022853-000	4/12/2019	1.00	5.78		935.05
022978-000	6/4/2019	1.00	2.14		223.02
023734-000	8/1/2020	1.00	8.52	\$	1,045.36
				\$	30,664.17

	<u>Connect Date</u>	<u>RLE</u>	<u>Correct RLE</u>	<u>Total</u>
022817-001	10/19/2020	1.00	2.48	167.14
021450-001	3/11/2019	1.00	2.48	265.73
017247-000	2/25/2011	1.00	2.48	283.12
024188-002	7/17/2017	-	9.00	1,721.34
014259-002	9/1/2015	-	2.29	437.89
024645-001	11/6/2020	1.00	9.75	890.78
				\$ 3,766.00

Account	<u>Connect Date</u>	<u>RLE</u>	<u>Correct RLE</u>	<u>Total</u>
005083-008	2/27/2020	1.00	2.07	\$ 107.67
008015-032	10/7/2021	1.00	9.17	348.93
008435-016	6/1/2021	1.00	13.38	823.86
009463-004	8/27/2020	1.00	33.73	3,100.17
010218-020	4/1/2022	1.00	1.09	7.12
015756-001	6/3/2020	1.00	9.75	833.58
016983-001	5/1/2021	1.00	1.13	15.85
017470-075	1/10/2020	1.00	1.60	63.24
017642-004	5/1/2021	1.00	7.63	482.03
018492-001	12/14/2021	1.00	9.45	251.33
021450-001	12/28/2021	1.00	10.09	250.70
022233-000	4/30/2018		17.52	3,123.60
022619-002	11/6/2020	1.00	1.60	63.24
022767-001	9/30/2021	1.00	3.92	132.73
023326-001	11/1/2019	1.00	14.26	1,841.16
023443-001	1/24/2020	1.00	2.19	119.01
023458-000	2/1/2020	1.00	24.38	2,216.41
023921-000	10/1/2020	1.00	5.62	443.21

024134-000	1/29/2021	1.00	58.99	5,266.20
024271-000	4/1/2021	1.00	3.32	186.14
024271-002	4/1/2021	-	1.49	44.47
024288-000	5/1/2021	1.00	1.13	15.85
024288-001	5/1/2021	1.00	1.13	15.85
024296-000	5/4/2021	1.00	12.45	819.24
024297-000	5/5/2021	1.00	7.04	435.24
024381-002	5/28/2021	1.00	3.09	145.94
024426-000	7/6/2021	1.00	4.83	233.41
024480-000	7/31/2021	1.00	1.34	79.72
024482-000	7/30/2021	1.00	16.87	873.35
024573-000	9/8/2021	1.00	2.55	80.06
024645-001	9/30/2021	1.00	25.68	1,073.20
024679-000	10/28/2021	1.00	1.96	43.26
024681-000	9/30/2021	1.00	1.04	8.26
024723-001	11/1/2021	-	4.91	153.23
024725-000	11/15/2021	1.00	3.69	99.79
024748-001	11/17/2021	1.00	1.69	30.69
024805-000	12/22/2021	1.00	3.36	71.54
024829-000	1/1/2022	1.00	61.25	1,580.26
024873-000	2/1/2022	1.00	5.20	88.81
024907-000	3/1/2022	1.00	4.78	55.90
				\$ 25,624.25

<u>Account</u>	<u>Connect Date</u>	<u>RLE</u>	<u>Correct RLE</u>	<u>Total</u>
0022454-001	8/1/2018	1.00	13.78	2,472.16
009282-000		1.00	50.32	10,062.99
				\$ 72,589.58

CITY OF FARIBAULT
CUSTOMERS WITH SEWER (NOT BILLED) AS OF OCTOBER 11, 2022

<u>Account #</u>	<u>Connect Date</u>	<u>9/30/2019 Meter Reading</u>	<u>9/30/2022 Meter Reading</u>	<u>Less Gallons of Sewer Capped</u>	<u>Gallons of Water Used</u>	<u>Fee Per Gallon</u>	<u>Billing For Consumption</u>	<u>Months to be Back Billed</u>	<u>Base Fee Per Month</u>	<u>Billing for Base Fees</u>	<u>Total to Be Back Billed</u>
005238-001	9/17/2014	299,017.90	476,094.90	0.00	177,077.00	0.00361	639.25	36	8.32	299.52	\$ 938.77
007119-001	Forever										
010155-001	5/11/2020	111,790.00	417,991.50	35,566.20	270,635.30	0.00361	976.99	28.66	8.32	238.4512	1,215.44
010585-000	9/23/2013	187,117.40	270,963.60	0.00	83,846.20	0.00361	302.68	36	8.32	299.52	602.20
011693-000	?	284,893.90	484,210.00	0.00	199,316.10	0.00361	719.53	36	8.32	299.52	1,019.05
018427-000	Forever	439,376.60	596,870.00	0.00	157,493.40	0.00361	568.55	34	8.32	282.88	851.43
013244-000	Forever	148,304.70	148,304.70	0.00	0.00	0.00361	0.00	35	8.32	291.2	
025360-000	8/26/2022	148,304.70	148,304.70	0.00	0.00	0.00361	0.00	1	8.32	8.32	8.32
021308-000	8/26/2016	524,244.60	980,130.00	120,873.70	335,011.70	0.00361	1,209.39	36	8.32	299.52	1,508.91
021618-000	2014	88,047.80	248,549.00	8,648.40	151,852.80	0.00361	548.19	36	8.32	299.52	847.71
021627-000	11/14/2018	237,522.50	525,721.00	29,217.80	258,980.70	0.00361	934.92	36	8.32	299.52	1,234.44
022262-000	Tap Card - Sewer	248,286.20	369,586.60	0.00	121,300.40	0.00361	437.89	36	8.32	299.52	737.41
022376-000	9/3/2020	185,669.70	282,955.80	0.00	97,286.10	0.00361	351.20	24.9	8.32	207.168	558.37
Total to Be Back Billed										\$ 8,583.28	

CITY OF FARIBAULT
MISCELLANEOUS BILLING ADJUSTMENT EXAMPLES

<u>Billing</u> <u>Date</u>	<u>Account #</u>	<u>Back Billed</u> <u>Amount</u>	<u>Date</u>	<u>Months</u> <u>Back Billed</u>	<u>Reason</u>
6/10/2022	016683-003	\$ (100.40)	6/30/2020	25	Fixed Charges Over Billed
6/10/2022	016407-000		7/1/21 to 9/30/21	3	Irrigation Meter Installed - Finance Not Informed
7/9/2022	019844-000	\$ 872.88	12/13/2019		Bill Based on 1" Fixed Charges Rather Than Both 2" & 5/8" Meter
10/8/2022	023139-000	\$ 1,820.00	9/1/2019	35	Fixed Charges Not Put on New Account



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Tim Murray, City Administrator
FROM: Mark DuChene, City Engineer
MEETING DATE: October 18, 2022
SUBJECT: City Code of Ordinances Chapter 28 - Water and Sewers Updates

Discussion:

City staff have been reviewing Chapter 28 - Water and Sewers of the City Code of Ordinances to clean up outdated code language as well as revise the code to more clearly align with current practices. The notable changes are summarized as follows:

- Remove references to quarterly billing and change to monthly billing consistent with current utility billing practices
- Change references from the utility fee schedule to just the annually adopted fee schedule.
- Update language regarding water meters and disconnection process.
- Update stormwater drainage utility fee related ordinances to better define how properties are classified and residential lot equivalents (RLE's) are allocated for billing purposes. More specifically, the changes are focused on how multi-family and mixed use properties are to be classified to be more equitable.

Staff will present the proposed changes to the City Council and is seeking feedback on the proposed changes. The intent is to bring the formal ordinance changes before Council in November so that billing changes regarding the Stormwater Utility Fees can be implemented no later than the first quarter of 2023.

Attachments:

1. Chapter_28___WATER_AND_SEWERS

Chapter 28 WATER AND SEWERS¹

¹Charter reference(s)—Ownership and operation of utilities, § 11.01 et seq.

Cross reference(s)—Buildings and building regulations, Ch. 7; space, occupancy and building standards relative to housing, § 7-65(4), (6); planning, Ch. 20; right of city to excavate beneath railroad tracks for purposes of water mains, sewers, etc., § 22-2; permission required to make ditch, drain or sewer in streets, § 25-6; utility franchises, App. A, Art. II.

State law reference(s)—Authority of city council in statutory city as to water supply and connections thereto generally, M.S. § 412.221, subds. 11, 31; powers of city council in statutory city relating to sewers, sewage disposal and sewer connections generally, M.S. § 412.221, subds. 6, 22, 31; waterworks systems, sewage disposal systems, M.S. § 444.075.

ARTICLE I. IN GENERAL

Sec. 28-1. Connections with water mains and sanitary sewers; inspections; books, plats, diagrams and price schedule.

- (a) It shall be unlawful for any person to install a private water system except in cases where the public water or sewer systems are not accessible to the premises where such private systems are requested. To determine whether or not such public water and/or sewer systems are available for connection, each person or corporation desiring to install a private water or sewer system must first make application for connection to a public system. Upon determination by the city that it is not feasible to connect the applicant's premises to the public water or sewer system, then the applicant shall be granted a permit to install a private water and/or sewer system in accordance with all appropriate state and local regulations.
- (1) Property served by a private sewer system shall promptly connect to public sewer and water if the private sewer system does not function or creates a nuisance or health hazard.
 - (2) Within ninety (90) days after the public sanitary sewer system or water system is extended to serve property, all property served by private water and sewer systems must connect to public sewer and water, or if it is available on the date of adoption of this subsection, within ninety (90) days after the adoption of this subsection. A water availability charge [and sewer availability charge](#), as set by the [utility](#) fee schedule, will be imposed on all landowners who ~~do not~~ connect to public water and sewer.
 - (3) Whenever any premises are connected to the city water system, there shall be maintained a complete physical separation between the city water supply system and any private water supply system so that it is impossible to intentionally or unintentionally allow any water produced by a private system to be introduced in the supply line of the city system.
 - (4) City council may extend the compliance period outlined in section 28-1(a)(2).
- (b) No corporation stop or tap shall be put into any water main or connection made to any sanitary sewer in the city at any time by any person, except under the immediate direction and supervision of the city. Any such corporation stop shall be inserted in the main, or any such connection made to a sanitary sewer, at the point approved by the city pursuant to a written application therefor.
- (c) The owner of each lot or subdivision of a lot in the city, not serviced by water on any street, shall be required to construct, install and connect with the water main a one-inch copper, type "K" water service pipe from the water main to a curb stop approximately nine (9) feet inside the property from the property line, if a public water main is reasonably available.
- (d) The owner of each lot or subdivision of a lot in the city, not serviced by a sanitary sewer on any street or public right-of-way, shall be required to construct, install and connect with the sewer main a four (4) inch, ~~extra-heavy-duty-cast-iron-or~~ PVC ~~soil~~ pipe to a point approximately nine (9) feet from the property line, if a public sewer is reasonably available.
- (e) The provisions of subsections (c) and (d) of this section also shall apply to the owner of each parcel of land in the city which is not platted into lots, provided one or more residential structures are situated thereon. Said subsections (c) and (d) shall apply to each such structure, even though more than one such structure is situated on one unplatted parcel; except that said subsection (c) does not apply, if the particular structure is already receiving water from a private well within the requirements of all applicable laws and regulations; and except that, said subsection (d) does not apply, if the particular structure is serviced by a private septic

tank within the requirements of all applicable laws and regulations. If and when any such structure no longer receives water from a legally acceptable private well or no longer is serviced by a legally acceptable private sewer, then said subsections (c) and (d) hereof shall apply respectively when the particular private facility no longer meets the law or regulations.

- (f) All pipes, stopcocks, and other fixtures used and all work done by any plumber at any time in connection with the sanitary sewerage system or waterworks system of the city shall be subject to inspection and approval by the city before placed in operation and use.
- (g) The city engineer shall keep in their office a comprehensive diagram of all water mains, branches, extensions, hydrants and gates showing their location and size. He shall, from time to time, correct and enlarge such diagram as occasion may require.
- (h) The city engineer shall keep in books, provided for that purpose, records with suitable diagrams showing, as far as possible, the number, the size and location of all corporation stops inserted in the mains and of all service pipes connected therewith.

(Code 1971, § 28-16; Ord. No. 80-3, § 1, 3-11-80; Ord. No. 80-24, § 1, 9-10-80; Ord. No. 88-21, § 1, 1-10-89; Ord. No. 2004-25, § 1, 10-26-04)

Charter reference(s)—Power of council to fix rates, fares and prices for municipal utility, § 11.02.

State law reference(s)—Power of city council in statutory city to require connections with sewer and water mains, M.S. § 412.221, subd. 31.

Sec. 28-2. Abandoned services to be disconnected and/or plugged.

- (a) Whenever the owner of any lot or subdivision of a lot in the city which is serviced by a water service line alters the use of said lot or subdivision of a lot such that the water service line will no longer be utilized, said owner shall disconnect the service line.
- (b) Unless other procedures are specifically approved by the city engineer, water service lines to be disconnected shall be physically disconnected from the water main by removal of the service line from the corporation stop or tap and by closing of the corporation stop or plugging of the tap.
- (c) Whenever the owner of any lot or subdivision of a lot in the city which is serviced by a sewer service line alters the use of said lot or subdivision of a lot such that the sewer service line will no longer be utilized, said owner shall disconnect the service line.
- (d) Sewer service lines so disconnected shall be physically disconnected from the sewer main by removal of the service line from the sanitary sewer wye or tee connection and by capping or plugging the wye or tee with a plug or cap manufactured expressly for that purpose.
- (e) If the sanitary sewer main from which a service line is to be disconnected lies under the paved area of a street, the city engineer may approve disconnection of sewer service lines by plugging or capping the service line at a point outside the paved area of the street. Such plugging or capping shall be accomplished through the use of a plug or cap manufactured expressly for that purpose.
- (f) All sewer plugs or caps shall be watertight.
- (g) Any excavations made in connection with this section shall also be subject to the provisions of sections 25-7 and 25-120 of this Code of Ordinances.

(Ord. No. 84-04, § 2, 6-11-84; Ord. No. 2004-25, § 1, 10-26-04)

Cross reference(s)—Excavations generally, § 25-7 and 25-120.

Secs. 28-3—28-15. Reserved.

ARTICLE II. WATER²

²State law reference(s)—Authority of state commissioner of health relative to water, M.S. §§ 144.12, 144.35, 144.383 et seq.; Safe Drinking Water Act of 1977, M.S. §§ 144.381—144.387; power of city council in statutory city to provide and regulate the use of wells, cisterns, reservoirs, waterworks and other means of water supply, M.S. § 412.221, subd. 11; power of city council in statutory city to compel connections to water mains, M.S. § 412.221, subd. 31; waterworks systems, M.S. § 444.075; authority of city council over public waters within the boundaries of the city, M.S. § 459.20; authority of city council to regulate open wells, M.S. § 471.92.

DIVISION 1. GENERALLY

Sec. 28-16. Definition.

As used in this article, the term *person* or *individual* shall be intended to and does include individuals, corporations, associations, partnerships and public or private institutions.

(Code 1971, § 28-20)

Cross reference(s)—Rules of construction and definitions generally, § 1-41 et seq.

Sec. 28-17. Construction of provisions.

No provision, rule or regulation in this article governing the supply of water from the city waterworks system to consumers shall be construed as a contract in such a sense as to prevent the council from altering or amending same.

(Code 1971, § 28-17(a))

Sec. 28-18. Nonliability of city for deficiency or failure to supply.

The city shall not be liable under any circumstances for any deficiency or failure in the supply of water to consumers of the municipal water system, whether occasioned by shutting off water for the purpose of making repairs or connections, or for any other cause whatever.

(Code 1971, § 28-17(b))

Sec. 28-19. City may shut off at any time.

In case of fire or alarm of fire, the city may shut off the water to insure a supply for fire fighting. In making repairs to water mains or extending such main, the city may shut off the water from the municipal water system at any time and keep it off for as long as it is deemed necessary.

(Code 1971, § 28-17(1))

Cross reference(s)—Fire prevention and protection, Ch. 10.

Sec. 28-20. Rights of entry and inspection; duty to furnish information.

All water consumers of the municipal water system shall, at all reasonable times, permit the city to enter their premises and buildings to examine the pipes and fixtures and the manner in which the water is used. Such consumers shall, at all times, frankly and without concealment, answer all questions asked them relative to water consumption.

(Code 1971, § 28-17(d))

Sec. 28-21. Annual water use restrictions.

- (a) To conserve water resources and allow the city's water system flexibility in meeting peak demands, certain limitations must be placed on the city's water supply. An odd-even sprinkling restriction based on street addresses is in effect from May 1 to September 30 each year. Residents with even numbered addresses may water on Tuesday, Thursday and Saturday; residents with odd numbered addresses may water on Wednesday, Friday, and Sunday. Homeowners' associations and apartment complexes that provide a common irrigation system may water on Wednesday, Friday and Sunday, while commercial consumers may water on Tuesday, Thursday and Saturday. Monday is a "No Watering" day. City water cannot be used for the purposes of irrigating or watering lawns, sod, or seeded areas between 10:00 a.m. and 5:00 p.m. daily.
- (b) The water use restrictions in section 28-21(a) do not apply in the following situations: limited hand watering of plants using a hose; watering of new landscaping, sod, or seed within thirty (30) days of installation (a "new lawn" permit is required); and watering from a source other than the city's water supply if the water user has registered the alternative source with Rice County and the alternative source is properly permitted by the State of Minnesota. Under this exemption, the city may inspect the property to ensure compliance. New lawn permits can be obtained from the director of public works. The permit fee is in accordance with the ~~utility~~ fee schedule.
- (c) Upon determination by the city council at a regular or special meeting that the demand upon the municipal water system threatens the public safety or health, the city council may impose more restrictive measures by limiting the times and hours during which water may be used from the municipal water system.
- (d) Penalties. Failure to comply with restrictions or prohibitions imposed under this section shall result in a surcharge for water service for each violation in an amount determined by the city council and published in the ~~utility~~ fee schedule. Surcharges will be added to the water bill for the property on which such violation occurs. Violators will be notified prior to the imposition of a surcharge. An initial notice of violation will be given to the violator. Subsequent violations in the same calendar year will result in the imposition of a surcharge. Notices of surcharge for violations occurring after receipt of the initial notice shall be mailed to the property owner. The city shall presume receipt of the notice of surcharge three (3) days after mailing.

(Code 1971, § 28-22; Ord. No. 79-17, § 1, 9-11-79; Ord. No. 89-14, § 1, 8-22-89; Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-22. One curb-stop connection for each house or building; city may shut off water service where existing curb stop connects more than one building for nonpayment of charges for any of such buildings.

- (a) No more than one house or building shall be connected with the municipal water system through one curb stop.
- (b) Where two (2) or more houses or buildings are now supplied with water through one curb stop, failure on the part of the owner of any one of such buildings to comply with the terms of this article governing the payment and collection of water rents shall be deemed sufficient cause for the shutting off of the water from such service without any liability on the part of the city.

(Code 1971, § 28-17(j))

Sec. 28-23. Discontinuance of service.

All persons receiving water service from the city who desire a discontinuance of such service shall notify the city water division. Upon receiving such notice, the city shall remove the water meter and shut off the water

supply from such premises. Once the water has been shut off pursuant to this section, it shall not be turned on again until full payment has been made for the water used through the date of such notice.

(Code 1971, § 28-17(m))

Sec. 28-24. Turning off water.

No person, except a duly licensed plumber or city employee, shall turn off the water from the city waterworks at any street stopcock connected with a private pipe or water gate.

(Code 1971, § 28-17(n))

Sec. 28-25. Penalty.

Any person, including corporations, partnerships and associations, violating any provisions of this article shall be deemed guilty of a misdemeanor.

(Code 1971, § 28-21)

Charter reference(s)—Authority of council to prescribe penalties for violation of utility regulations, § 11.02.

Sec. 28-26. Water service outside city limits.

Water service shall not be provided to properties outside city limits.

(Ord. No. 2022-5, § 1, 4-26-22)

Secs. 28-27—28-35. Reserved.

DIVISION 2. METERS

Sec. 28-36. Meters—Required.

Before any water conveyed through the municipal water system shall be used or utilized on the premises of any person, there shall be installed a water meter, selected by the city, that will accurately measure the water consumed on the premises. The outside reader for the water meter shall be located by the city.

(Code 1971, § 28-17(p); Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-37. Same—Property of city.

All water meters shall remain the property of the city and remain under its control.

(Code 1971, § 28-17(q); Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-38. Furnishing and installing by consumer—Generally.

- (a) Meters shall be installed by [a licensed plumber at](#) the property owners ~~at their own~~ expense, and shall remain city property.

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- (b) All applications for installation, maintenance and repair of water meters shall be made to the city and the city shall proceed to comply with such application within a reasonable time thereafter.

(Code 1971, § 28-17(r); Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-39. Same—Testing and approval by city.

No water shall be furnished to any consumer of the municipal water system installing his own meter, as allowed in this division, unless such meter shall, in all respects, comply with the requirements prescribed by the city, and until such water meter has been tested and approved by the city.

(Code 1971, § 28-17(s))

Sec. 28-40. Same—Rates and charges.

Each customer shall pay a nonrefundable charge to the city for the cost of the water meter in an amount fixed by the ~~utility~~ fee schedule. The fee will be added to the building permit fee, if a permit is required.

(Code 1971, § 28-17(u); Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-41. Same—Repairs; testing; supervision of city; charges; nonpayment; shutting off service; etc.

- (a) No person, other than the city or its designee, shall maintain or repair any water meter used within the city limits. ~~Every water meter connected to the water system shall be sealed by or under the direction of the city, and no other person shall break or remove such seal; provided however, that a plumber licensed to do business in the state may break such seal to remove such meter for necessary repairs. In all cases where a seal is broken or a meter is removed by a licensed plumber, such plumber shall notify the city of the fact within twenty four (24) hours after the seal is broken or the meter is removed. Whenever any seal attached to a water meter by or under the direction of the city is found broken, the broken condition of such seal shall be prima facie evidence that such seal was broken contrary to the terms and provisions of and in violation of this chapter.~~
- (b) All water meters connected to the water system shall be accessible to the city or its designee at any reasonable hour of any business day, and the refusal of admission by any owner or occupant of any premises wherein a water meter is installed after such owner or occupant has been notified that admission is desired for the purpose of inspecting a water meter installed in said premises shall constitute a violation of this chapter and the owner or occupant is prohibited from obstructing the meter so as to prohibit the reading or repairing of the meter. If a property owner fails to give consent to enter private property to inspect a meter, the city will pursue legal action, or disconnection to gain access.
- (c) Said meters shall be repaired from time to time as is necessary to ensure accurate measuring of the flow of water, except that whenever a meter has been damaged due to negligence on the part of persons other than the employees of the city, the owner, occupant or user of the premises or such other persons desiring the use of the water shall reimburse the city for the expense of repairing any such meter, as well as a Tampering Fee set by the city council in the fee schedule. Upon failure to reimburse the city within a reasonable time and upon demand therefor, the water services and supply to said premises may be shut off or discontinued as determined to be in the best interest of the city.
- (d) ~~Whenever a water user questions the accuracy of the meter and desires that their meter be tested, he shall pay a fee, such fee to be set by city council, if the meter tests accurate within the range of minus three (3)~~

~~percent to plus one and one-half percent. If it is not accurate within this range, no charge will be made for testing and an adjustment on the water bill will be made for the period of time that the meter is assumed to be inaccurate, as determined by the city, not to exceed two (2) billing periods.~~

- (e) All commercial, institutional, and industrial consumers are responsible for any and all costs associated with the purchase, installation, repair, or replacement of the water meter.

(Code 1971, § 28-17(t); Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-42. Temporary, unmetered service.

To meet any temporary and incidental demand for water from the municipal water system, where the installation of a meter is not practical, the city engineer shall supply such water and make such charges therefor as he shall deem just and equitable.

(Code 1971, § 28-18(a))

Sec. 28-43. Standards and specifications.

All water meters shall be sized in accordance with Minnesota Rules section 4715.3800, Recommended Guide for Sizing Water Supply Systems, except that the minimum size of a water meter for a townhouse with two (2) or fewer bathrooms shall be five-eighths (5/8) inch. Except for new construction after January 1, 2005, the minimum size shall then be three-fourths (3/4) inch.

(Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-44. Faulty meters.

- (a) Whenever a water user questions the accuracy of the meter and desires that their meter be tested, he shall pay a fee, such fee to be set by city council resolution ~~at its first regular meeting each fiscal year~~, if the meter tests accurate within the range of minus three (3) percent to plus one and one-half percent. If it is not accurate within this range, no charge will be made for testing and an adjustment on the water bill will be made for the period of time that the meter is assumed to be inaccurate, as determined by the city, not to exceed two (2) billing periods.
- (b) If a meter fails to register or accurately measure the water, the charge for water consumed shall be paid for at the established rate based upon past average billings as determined by the city.

(Ord. No. 2004-25, § 1, 10-26-04)

Secs. 28-45—28-50. Reserved.

DIVISION 3. SERVICE PIPES

Sec. 28-51. City not responsible.

- (a) The city shall not be responsible for water pipes or fixtures beyond the water main. Consumers of the municipal water system shall keep their service pipes, fixtures and connections in good order at their expense.

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- (b) *Repairs.* Except as otherwise provided by written agreement with the city, after the initial connection has been made to the curb stop or the sewer lead the applicant, owner, occupant, or user of the premises shall be liable for all repairs required to any water line or any sanitary or storm sewer line necessary for connection of the premises to the property line, including any repairs necessary to the curb stopbox. It shall be the responsibility of the applicant, owner, occupant, or user to maintain the stopbox at such height as will ensure that it remains above the finished grade of the property.
- (c) *Failure of system.* The city shall not be held liable at any time for any deficiency or failure in the supply of water to any customer whether the same be occasioned by shutting off the water for repairs or connections or for any cause whatever.

(Code 1971, § 28-17(c); Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-52. Standards and specifications of materials.

All service pipes shall be in compliance with the applicable provisions of the Minnesota Plumbing Code 4715.

(Code 1971, § 28-17(e); Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-53. Stopcock or shutoff valve—Required generally.

No water from the municipal water system shall be taken or used through any private service pipe, unless such pipe is provided with a sufficient stopcock or shutoff valve under the exclusive control of the city.

(Code 1971, § 28-17(h))

Sec. 28-54. Same—Location; enclosed in iron box; specifications for iron box; etc.

The street stopcock required by section 28-53 of this division shall, in each case, be fitted into the service pipe at the outer edge of the sidewalk, or at such point in the ~~street-right-of-way~~ [or public easement](#), as the city may direct, and must be closed with a substantial iron box provided with a strong iron covering and fastening. The size, shape and pattern of the box, cover and fastening to be furnished shall be determined by the city.

(Code 1971, § 28-17(i))

Sec. 28-55. Same—Required for each separate lot or building.

No plumber or other person shall be permitted to introduce service pipe to, or to conduct water from, the municipal water system from the same tap into two (2) or more distinct lots or buildings, unless separate and distinct stopcocks are so placed on the right-of-way that the water may be separately turned off from, on or to any of such buildings or lots.

(Code 1971, § 28-17(g))

Sec. 28-56. Depth.

All water service pipe between the city water main and the property line shall be laid at the same depth as the main pipe in the street.

(Code 1971, § 28-17(f))

Sec. 28-57. Protection against freezing.

All water service pipe between city mains and stopcocks, which are inside of buildings, cellars and basements, shall be carefully protected against freezing.

(Code 1971, § 28-17(k))

Sec. 28-58. Authority to install water service pipes.

Any water service pipes, constructed of lead, and discovered through the course of street construction and reconstruction, are subject to replacement at the owner's expense.

(Ord. No. 86-11, § 1, 6-24-86)

Secs. 28-59—28-65. Reserved.*DIVISION 4. RATES AND CHARGES³*

³Charter reference(s)—Power of city council to fix rates, fares and prices for any municipal utility, § 11.02.

Sec. 28-66. Amounts fixed.

Water rates shall be set in the ~~utility~~-fee schedule by the city council. Water rates include a flat rate based upon meter size and a water consumption charge.

(Code 1971, § 28-18(d); Ord. No. 80-8, § 1, 4-22-80; Ord. No. 84-03, § 1, 5-8-84; Ord. No. 86-21, § 1, 10-14-86; Ord. No. 88-02, § 1, 2-23-88; Ord. No. 88-15, § 1, 10-11-88; Ord. No. 89-26, § 1, 12-19-89; Ord. No. 92-11, § 1, 12-22-92; Ord. No. 94-22, § 1, 12-27-94; Ord. No. 95-27, § 1, 11-28-95; Ord. No. 97-27, § 1, 12-23-97; Ord. No. 99-18, § 1, 10-12-99; Ord. No. 2001-22, § 1, 11-27-01; Ord. No. 2002-27, § 1, 11-26-02; Ord. No. 2003-34, § 1, 12-9-03; Ord. No. 2004-25, § 1, 10-26-04; Ord. No. 2008-22, § 1, 11-25-08; Ord. No. 2011-03, § 1, 4-12-11; Ord. No. 2018-5, § 1, 5-8-18)

Sec. 28-67. Special contracts.

When it appears to be in the best interest of the city, the council may prescribe water rates for particular customers of the municipal water system by written contract approved by the council.

(Code 1971, § 28-18(c); Ord. No. 86-21, § 1, 10-14-86; Ord. No. 88-02, § 1, 2-23-88; Ord. No. 88-15, § 1, 10-11-88)

Sec. 28-68. Responsibility of owners of rental properties.

- (a) Where buildings served by the municipal water system are occupied by tenants, the owners of such buildings shall be responsible for the water charges even though such water charges may be paid by the tenant.
- (b) Where one or more meters are connected with the same service for the accommodation of the tenants of the buildings described in subsection (a) of this section, the owner shall be liable for the payment of all the water charges. Failure on the part of the owner or tenant to pay such water charges shall be sufficient cause for withholding water services until such account is paid.

(Code 1971, § 28-18(b); Ord. No. 86-21, § 1, 10-14-86; Ord. No. 88-02, § 1, 2-23-88; Ord. No. 88-15, § 1, 10-11-88)

Sec. 28-69. Bills—When due and payable.

Statements for water fees shall be computed and invoiced by the city along with the other utility bills such as sewer and stormwater. Such statement shall be due on or before the fifth (5th) day of the next month in which the statement is mailed. Any prepayment or overpayment or charges shall be retained by the city and applied against subsequent fees.

~~Water bills for water supplied by the municipal water system shall be due and payable as prescribed by resolution of the council.~~

(Code 1971, § 28-18(f); Ord. No. 86-21, § 1, 10-14-86; Ord. No. 88-02, § 1, 2-23-88; Ord. No. 88-15, § 1, 10-11-88)

Sec. 28-70. Same—Delinquencies; penalty.

Each billing for~~A penalty of ten (10) percent of the amount of~~ the consumer's water bill for water supplied by the municipal water system not paid when due shall incur a penalty charge as set by city council in the fee schedule~~may be imposed on to any such bills which are delinquent.~~

(Code 1971, § 28-18(e); Ord. No. 86-21, § 1, 10-14-86; Ord. No. 88-02, § 1, 2-23-88; Ord. No. 88-15, § 1, 10-11-88)

Sec. 28-71. Same—Collection; receipts for payment; delinquent list; report to city administrator; etc.

The city administrator shall receive all monies from all persons or consumers of water shown by the statement of the water division of the department of public works to be due. Upon payment by any person of the water charges so charged, the city administrator shall give such person a suitable receipt and endorse on the proper places on such statement the time and amount of such payment. On the ~~sixteenth~~ day of the month after receiving copies of such statements, the city administrator shall make out and deliver to the water division superintendent a statement or list of all persons who shall have failed to make payment of water charges so charged against them. It shall be the duty of the city administrator to preserve all of the copies of statements delivered by the water division superintendent and return the same with an official receipt for the amount collected to the financial records in the office of the city administrator on or before the last day of each month.

(Code 1971, § 28-18(i); Ord. No. 86-21, § 1, 10-14-86; Ord. No. 88-02, § 1, 2-23-88; Ord. No. 88-15, § 1, 10-11-88)

Sec. 28-72. Same—Turning off service.

- (a) It shall be the duty of the water division superintendent, upon receiving, pursuant to section 28-71 of this division, the list or statement of such persons who shall have failed to pay water bills by the ~~sixteenth~~ day of the month following receipt of the bill, to forthwith make a diligent effort to enforce payment, and failure by the consumer to pay account within a reasonable time thereafter shall be deemed sufficient cause for turning off the water to such premises.
- (b) When a consumer's water has been turned off it shall not be turned on again until payment of ~~reconnection~~ disconnection processing fee, in addition to full payment of delinquent water rent. The ~~reconnection~~ disconnection processing fee shall be set by the city council in the ~~utility~~ fee schedule.

(Code 1971, § 28-18(g), (h); Ord. No. 80-21, § 1, 7-8-80; Ord. No. 86-21, § 1, 10-14-86; Ord. No. 88-02, § 1, 2-23-88; Ord. No. 88-15, § 1, 10-11-88; Ord. No. 94-13, § 1, 9-13-94; Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-73. Same—Assessment.

Water rent shall be a charge against the owner, lessee or occupant of the premises and shall constitute a lien against the lot or parcel served and in the event of delinquency, the city administrator may commence legal action to collect such unpaid rent or certify such delinquency to the county auditor to be assessed against such lot or parcel and collected with real estate taxes.

(Code 1971, § 28-18(j); Ord. No. 80-24, § 2, 9-10-80; Ord. No. 86-21, § 1, 10-14-86; Ord. No. 88-2, § 1, 2-23-88; Ord. No. 88-15, § 1, 10-11-88)

Sec. 28-74. Call-back service charge.

The city may charge for call back services after normal work hours. Normal work hours are Monday through Friday from 7:00am to ~~5:04:30~~ pm. Persons who receive water service from the city shall be charged for any service, maintenance, or repair not covered by section 28-51 due to their negligence. Examples of such service, maintenance, or repair includes curb-stop locates, no water, broken pipes, frozen pipes, leaking shutoff valves, and meter repairs. The amount charged will not exceed the actual cost of such repairs and labor. The charges will be added to the utility bill. Failure to pay for such repairs within a reasonable period shall be deemed sufficient cause for shutting off the water from such service until the account is paid.

(Ord. No. 2004-25, § 1, 10-26-04)

Secs. 28-75—28-80. Reserved.

DIVISION 5. HYDRANTS⁴

⁴Cross reference(s)—Fire prevention and protection, Ch. 10.

Sec. 28-81. Authorized personnel to open fire hydrant.

No person, except a public works department employee or an officer of the fire division of the department of public safety, shall open any fire hydrant for any purpose whatever.

(Code 1971, § 28-17(o))

Sec. 28-82. On private property—City inspection; maintenance by owner.

Any person may install private hydrants, on their private property, connected with the city water supply. No such hydrant shall be placed in operation until inspected by the city. All such hydrants shall be maintained by the city. The cost of maintaining the hydrant will be charged to the person or corporation owning or responsible for the property on which the hydrant is situated. The charges will be added to the utility bill. Failure to pay for such repairs within a reasonable period shall be deemed sufficient cause for shutting off the water from such service until the account is paid. For maintenance, if city staff feels unsafe conditions exist on the property, the city may elect to return at another time to complete any maintenance. When this situation occurs, the property owner will be charged a minimum service fee that may be added to their utility bill. Failure to pay for the service fee within a reasonable period shall be deemed sufficient cause for shutting off the water from such service until the account is paid.

(Code 1971, § 28-19(a); Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-83. Penalty.

Any person, including corporations, partnerships and associations, violating any provisions of this article shall be deemed guilty of a misdemeanor.

(Ord. No. 2004-25, § 1, 10-26-04)

Secs. 28-84—28-94. Reserved.

ARTICLE III. SEWERS⁵

⁵Editor's note(s)—Section 1 of Ord. No. 2013-003, adopted July 9, 2013, amended Art. III in its entirety, in effect repealing §§ 28-96—28-106, 28-118—28-128, 28-136—28-144, 28-151—28-159, 28-166—28-176, and enacting similar new provisions in lieu thereof as §§ 28-95—28-106, 28-118—28-128, 28-136—28-148, 28-151—28-156, 28-160—28-177. See the Code Comparative Table for a complete derivation.

Cross reference(s)—Unlawful deposit of objectionable waste, § 17-11; obstruction of sewers, § 17-13.

State law reference(s)—Power of state commissioner of health to adopt regulations relating to the disposal of sewage, M.S. § 144.12; authority of city council in statutory city to establish and maintain sewers, M.S. § 412.221, subd. 6; authority of city council in statutory city to provide for or regulate the disposal of sewage, M.S. § 412.221, subd. 22; power of city council in statutory city to compel sewer connections, M.S. § 412.221, subd. 31; sewers and sewage disposal systems, M.S. § 444.075.

DIVISION 1. GENERALLY

Sec. 28-95. Purpose and policy.

- (a) This article sets forth uniform requirements for users of the publicly owned treatment works for the City of Faribault and enables the city to comply with all applicable state and federal laws and regulations, including, but not limited to, the Clean Water Act (33 United States Code Section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations Part 403).
- (b) The objectives of this article are:
 - (1) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
 - (2) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the system inadequately treated into receiving waters, or otherwise be incompatible with the system;
 - (3) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
 - (4) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works; and
 - (5) To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.
- (c) This article shall apply to all users of the publicly owned treatment works. This article authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires user reporting.
- (d) Except as otherwise provided herein, the public works director shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the public works director may be delegated by him or her to a duly authorized city employee.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-96. Definitions.

For the purposes of this article, the following words, terms and phrases shall have the following respective meanings ascribed to them by this section:

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

Ammonia nitrogen (NH₃) shall mean the production of dissolved oxygen demand which is toxic to aquatic life. Parameters based on seasonal conditions set forth in the NPDES permit.

Approval authority shall mean the Minnesota Pollution Control Agency.

Authorized or duly authorized representative of the user shall mean:

- (1) If the user is a corporation:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs (1) through (3), above, may designate a duly authorized representative if the authorization is in writing, it specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and it is submitted to the city.

Best management practices or *BMPs* shall mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in the prohibited discharge standards of this article. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical oxygen demand or *BOD* shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty (20) degrees centigrade, usually expressed as a concentration (milligrams per liter).

Biosolids shall mean sewage sludge that is accepted and beneficial for recycling on land as a soil condition and nutrient source.

Building drain (in accordance with Minnesota Plumbing Code 4715.0100).

Building sewer (in accordance with Minnesota Plumbing Code 4715.0100).

CBOD5 (*carbonaceous biochemical oxygen demand*) shall mean 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 (5) days at twenty (20) degrees centigrade (C). The laboratory determinations shall be made in accordance with procedures set forth in "standard methods."

Categorical pretreatment standard or *categorical standard* shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307 (b) and (c) of the Act (33 U.S.C. Section 1317) that apply to a specific category of users and that appear in 40 C.F.R. Chapter I, Subchapter N, Parts 405-471.

Categorical industrial user shall mean an industrial user subject to a categorical pretreatment standard or categorical standard.

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

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

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

Environmental Protection Agency or *EPA* means the United States Environmental Protection Agency, or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

Existing source means any source of discharge that is not a "new source."

Grab sample means a sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

Indirect discharge or *discharge* means the introduction of pollutants into the publicly owned treatment works from any nondomestic source.

Infiltration shall mean 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.

Inflow shall mean 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 sewer catch basins, stormwaters, surface run-off, street wash waters, or drainage. Inflow does not include, and is distinguished from infiltration.

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

Interference shall mean a discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the publicly owned treatment works, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; and the Toxic Substances Control Act.

Local limit means specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 C.F.R. 403.5(a)(1) and (b).

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

MPCA means the Minnesota Pollution Control Agency, or Minnesota Pollution Control Agency staff as delegated by the Minnesota Pollution Control Agency.

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

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

National Pollutant Discharge Elimination System Permit NPDES means national pollutant discharge elimination system which is the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under sections, 307, 318, 402 and 405 of the Clean Water Act, United States Code, title 33, sections 1317,1328, 1342 and 1345.

New source means:

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

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

Normal strength domestic wastewater shall mean normal strength wastewater for the city in which the average concentration of suspended materials and five (5) day CBOD5 is established at not greater than two hundred twenty (220) parts per million each, by weight. The COD of normal domestic wastewater shall not exceed five hundred (500) parts per million. The TSS is established at not greater than two hundred forty (240) parts per million each, by weight. The NH3 is established at not greater than twenty-five (25) parts per million each, by

weight. The TP is established at not greater than eight (8) parts per million each, by weight. Such wastewater does not include infiltration and/or inflow, and it is composed of domestic wastewater.

Pass through means a discharge which exits the publicly owned treatment works into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

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

Phosphorus, total (TP) shall mean a nutrient for plant growth. Measured in mg/l and determined by mass load.

pH shall mean a measure of the acidity or alkalinity of a solution, expressed in standard units.

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

Pretreatment shall mean the process of reducing the amount of pollutants, eliminating pollutants, altering the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the publicly owned treatment works. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

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

Prohibited discharge standards or *prohibited discharge* means absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 28-152 of this article.

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

RCRA hazardous waste shall mean waste that appears on one of the four (4) hazardous waste lists (F-list, K-list, P-list, or U-list), or exhibits at least one of four (4) characteristics - ignitability, corrosivity, reactivity, or toxicity.

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

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.).

Significant industrial user (SIU). Except as provided in paragraphs (3) and (4) below of this definition, a significant industrial user is:

- (1) An industrial user subject to categorical pretreatment standards; or
- (2) An industrial user that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;

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- c. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) The city may determine that an industrial user subject to categorical pretreatment standards is a nonsignificant categorical industrial user rather than a significant industrial use on a finding that the industrial user never discharges more than one hundred (100) gpd of total categorical wastewater (excluding sanitary, noncontact cooling, and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
- a. The industrial user, prior to the city's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - b. The industrial user annually submits the certification statement required in subsection 28-148(n) of this article, together with any additional information necessary to support the certification statement; and
 - c. The industrial user never discharges any untreated concentrated wastewater.
- (4) Upon a finding that a user meeting the criteria in paragraph (2) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with the procedures in 40 C.F.R. 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug load or slug discharge shall mean any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in section 28-152 of this article. A slug discharge is any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass through, or in any way violate the POTW's regulations, local limits, or permit conditions.

Standard methods shall mean 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 Environment Federation, and the American Water Works Association. Such "standard methods" shall also conform to federal register reprint 40 CFR 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants" (July 1, 2000).

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

Total suspended solids or suspended solids shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

User or industrial user shall mean a source of indirect discharge.

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

Wastewater treatment plant or treatment plant shall mean that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-97. Discharge of wastewater or other polluted waters to natural outlet.

It shall be 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 the provisions of this article.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-98. Grease, oil, and sand interceptors.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the public works director, they are necessary for the proper handling of wastewater containing excessive amounts of grease, oil, or sand; except that, such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the public works director, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner 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 that are subject to review by the public works director. Any removal and hauling of the collected materials must be performed by a currently licensed/certified waste disposal firm.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-99. Required sewer connections and installation of sanitary facilities.

The owners 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 located a public sanitary ~~or combined~~ sewer of the city, is hereby required at the owners' expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article and section 28-1, after official notice to do so; provided that said public sewer is within one hundred (100) feet of the property line.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-100. Private wastewater disposal systems prohibited; exceptions.

Except as otherwise provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-101. Metering of private water wells of sewer customers.

Upon request by the city, a property owner having a private water well as their source of potable water and choosing to be serviced by the city sewerage system, shall submit to the installation of a water meter to their well for the purpose of monitoring the amount of water used from the well and computing the sewer service charges. The property owner shall obtain a water meter from the city at their expense, and install such meters at their expense. This section does not supersede the provisions outlined in section 28-1.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-102. Right of entry and inspection—Generally.

- (a) Duly authorized employees of the city 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 article.
- (b) 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 said easement. If a property owner fails to give consent to enter private property to inspect a meter, the city will pursue legal action to gain access. 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.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-103. Same—City employees to observe safety rules of companies; companies to be held harmless and indemnified; exceptions.

While performing the necessary work on private properties referred to in section 28-102 of this division, duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees. The city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this article.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-104. Variances from requirements of article.

Reasonable variances to this article may be granted by the city council upon the showing of unique circumstances warranting the same.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-105. Causing damage to wastewater facilities.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of damage to property under Minnesota Statutes, Section 609.595.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-106. Violations of article.

- (a) Any person found to be violating any provision of this article, except section 28-104, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the

satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

- (b) Any person who shall continue any violation beyond the time limit provided for in subsection (a) of this section, shall be guilty of a petty misdemeanor. Each day in which any such violation shall continue shall be deemed a separate offense.
- (c) Any person violating any of the provisions of this article shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.

(Ord. No. 2013-003, § 1, 7-9-13)

Secs. 28-107—28-117. Reserved.

DIVISION 2. BUILDING SEWERS

Sec. 28-118. Permit required—Generally.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer of the city, or appurtenance thereof, without first obtaining a written building sewer permit under this division from the city.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-119. Same—Classes; applications; permit and inspection fees.

- (a) A building sewer permit is required for residential, commercial, and industrial buildings that are connected to the POTW. Significant industrial users must also obtain an individual wastewater discharge permit pursuant to section 28-140 of this article.
- (b) In order to obtain a building sewer permit, the owner or the owner's agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the city.
- (c) A permit and inspection fee in an amount set forth in the city's fee ordinance shall be paid to the city at the time the application is filed.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-120. Costs and expenses; indemnification.

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

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-121. Separate and independent for each building; exceptions; nonliability of city.

A separate and independent building sewer shall be provided for every building; except that, 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, the rear building drain may be extended to the front building and the whole considered as one building sewer. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-122. Use of old building sewers.

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

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-123. Construction and installation—Generally; excavations; backfilling; conformity to codes, rules, regulations, etc., of city.

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

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-124. Same—Excavations; barricades; lights; restoration.

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

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-125. Same—Elevation at building.

Whenever possible, the building sewer installed under this division 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 such building drain shall be lifted by an approved means and discharged to the building sewer.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-126. Same—Connections from surface runoff or groundwater sources.

No person shall make connection of roof downspouts, foundation drains, areaway drains, sump pumps or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a city sanitary sewer, unless such connection is approved by the city council.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-127. Same—Connections to city sewer—Generally; conformity to codes, rules, regulations, etc., of city; deviations; etc.

The connection of the building sewer into the public sewer of the city shall conform to the requirements of the building and plumbing code 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 city council before installation.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-128. Same—Same—Final inspections; testing; etc.

The holder of a building sewer permit under this division shall notify the city when the building sewer is ready for inspection and connection to the public sewer of the city. The connection and testing shall be made under the supervision of the approving authority.

(Ord. No. 2013-003, § 1, 7-9-13)

Secs. 28-129—28-135. Reserved.

DIVISION 3. DISCHARGE OF WASTEWATER BY SIGNIFICANT INDUSTRIAL USERS

Sec. 28-136. Wastewater analysis.

When requested by the public works director, a user must submit information on the nature and characteristics of its wastewater within ten (10) days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-137. Permit requirement.

- (a) No significant industrial user shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the public works director, except that a significant industrial user that has filed a timely application pursuant to section 28-140 of this article may continue to discharge for the time period specified therein.
- (b) The public works director may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this article.
- (c) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in sections 28-163 through 28-165 of this article. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, or local law.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-138. Permitting, existing connections.

Any user required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this article and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the public works director for an individual wastewater discharge permit in accordance with section 28-140 of this article, and shall not cause or allow discharges to the POTW to continue after 30 days of the effective date of this article except in accordance with an individual wastewater discharge permit issued by the public works director.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-139. Permitting, new connections.

Any user required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with section 28-140 of this article, must be filed at least thirty (30) days prior to the date upon which any discharge will begin or recommence.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-140. Permit application contents.

All users required to obtain an individual wastewater discharge permit must submit a permit application. The public works director may require users to submit all or some of the following information as part of a permit application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

- (a) Identifying information:
 - (1) The name and address of the facility, including the name of the operator and owner.
 - (2) Contact information, description of activities, facilities, and plant production processes on the premises.
- (b) Environmental permits. A list of any environmental permits held by or for the facility.
- (c) Description of operations:
 - (1) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description must include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;
 - (2) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (4) Type and amount of raw materials processed (average and maximum per day);
 - (5) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- (d) Time and duration of discharges;
- (e) The location for monitoring all wastes covered by the permit;

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- (f) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in subsection 28-148(a)(2)b. of this article (40 C.F.R. 403.6 9(e)).
 - (g) Measurement of pollutants.
 - (1) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
 - (2) The results of sampling and analysis identifying the nature and concentration or mass, where required by the standard or by the public works director, of regulated pollutants in the discharge from each regulated process.
 - (3) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - (4) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 28-148 of this article. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the public works director or the applicable standards to determine compliance with the standard.
 - (5) Sampling must be performed in accordance with the procedures set out in section 28-148 of this article.
 - (h) Any other information as may be deemed necessary by the public works director to evaluate the permit application.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-141. Permit application signatories and certifications.

- (a) All wastewater discharge permit applications, user reports, and certification statements must be signed by an authorized representative of the user and contain the certification statement in subsection 28-148(n) of this article.
- (b) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the public works director prior to or together with any reports to be signed by an authorized representative.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-142. Permit decisions.

The public works director will evaluate the data furnished by the user and determine whether to issue an individual wastewater discharge permit. The public works director may deny any application for an individual wastewater discharge permit.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-143. Permit issuance.

- (a) An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period of less than five (5) years, at the discretion of the public works director. Each individual wastewater discharge permit shall indicate a specific date upon which it will expire.
- (b) An individual wastewater discharge permit shall include conditions as are deemed reasonably necessary by the public works director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.
 - (1) Individual wastewater discharge permits must contain:
 - a. A statement that indicates the wastewater discharge permit issuance date, expiration date, and effective date;
 - b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with section 28-145 of this article, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
 - c. Effluent limits, including best management practices, based on applicable pretreatment standards;
 - d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
 - e. A statement of applicable civil and criminal penalties for violation of the pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not exceed the time for compliance beyond that required by applicable federal, state, or local law;
 - f. Requirements to control slug discharge, if determined by the public works director to be necessary.
 - (2) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:
 - a. Limits on the average or maximum rate of discharge, time of discharge, and requirements for flow regulation and equalization;
 - b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;
 - c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
 - d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

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- g. A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit; and
 - h. Other conditions as deemed appropriate by the public works director to ensure compliance with this article, and state and federal laws, rules, and regulations.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-144. Permit modification.

The public works director may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
- (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (d) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;
- (e) Violation of any terms or conditions of the individual wastewater discharge permit;
- (f) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 C.F.R. 403.13;
- (h) To correct typographical or other errors in the individual wastewater discharge permit; or
- (i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with section 28-145 of this article.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-145. Permit transfer.

Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days' advance notice to the public works director and the director approves the transfer. Failure to provide advance notice of the transfer renders the individual wastewater discharge permit void as of the date of facility transfer. The notice to the director must include a written certification by the new owner or operator which:

- (a) States that the new owner or operator has no immediate intent to change the facility's operations and processes;
- (b) Identifies the specific date on which the transfer is to occur; and
- (c) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-146. Permit revocation.

The public works director may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (a) Failure to notify the public works director of significant changes to the wastewater prior to the changed discharge;
- (b) Failure to provide prior notification to the public works director of changed conditions pursuant to subsection 28-148(e) of this article;
- (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (d) Falsifying self-monitoring reports and certification statements;
- (e) Tampering with monitoring equipment;
- (f) Refusing to allow the public works director timely access to the facility premises and records;
- (g) Failure to meet effluent limitations;
- (h) Failure to pay fines;
- (i) Failure to pay sewer charges;
- (j) Failure to meet compliance schedules;
- (k) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a user are void upon the issuance of a new individual wastewater discharge permit to that user.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-147. Permit reissuance.

A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with section 28-140 of this article, a minimum of sixty (60) days prior to the expiration of the user's existing individual wastewater discharge permit.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-148. Reporting requirements.

- (a) *Baseline monitoring reports.*

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- (1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 C.F.R. 403.6(a)(4), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the public works director a report which contains the information listed in paragraph (2) below. At least ninety (90) days prior to the commencement of their discharge, new sources and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the public works director a report which contains the information listed in paragraph (2) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall report the method of pretreatment it intends to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quality of pollutants to be discharged.
 - (2) Users described above shall submit the information set forth below:
 - a. All information required in subsections 28-140 (a), (b), (c)(1), and (f) of this article;
 - b. Take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph. Samples shall be taken immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user must measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 C.F.R. 403.6 (e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 C.F.R. 403.6(e), this adjusted limit along with supporting data shall be submitted to the city;
 - c. Sampling and analysis shall be performed in accordance with subsection 28-148(j) of this article;
 - d. The public works director may allow the submission of a baseline report which utilized only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
 - e. The baseline report shall indicate the time, date, and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
 - (3) Compliance certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance or additional pretreatment is required to meet the pretreatment standards and requirements.
 - (4) Compliance schedule. If additional pretreatment or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment or operation and maintenance must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection 28-148(b) of this article.
 - (5) Signature and report certification. All baseline monitoring reports must be certified in accordance with subsection 28-148(a)(3) of this article and signed by an authorized representative.
 - (b) *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by subsection 28-148(a)(4) of this article:
 - (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events including, but are

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- not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (2) No increment referred to above shall exceed nine (9) months;
 - (3) The user shall submit a progress report to the public works director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
 - (4) In no event shall more than nine months elapse between such progress reports to the public works director.
- (c) *Reports on compliance with categorical pretreatment standard deadline.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the public works director a report containing the information described in subsections 28-140(f) and 28-140(g) of this article. For users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection 28-148(n) of this article. All sampling must be done in conformance with subsection 28-148(j) of this article.
- (d) *Periodic compliance reports.* All significant industrial users must, at a frequency determined by the public works director submit no less than twice per year (June and December) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by the public works director or the pretreatment standard necessary to determine the compliance status of the user. All periodic compliance reports must be signed and certified in accordance with subsection 28-148(n) of this article. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge. If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the public works director, using the procedures prescribed in subsection 28-148(j) of this article, the results of this monitoring must be included in the report.
- (e) *Reports of changed conditions.* Each user must notify the public works director of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.
- (1) The public works director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 28-140 of this article.
 - (2) The public works director may issue an individual wastewater discharge permit under section 28-140 of this article or modify an existing wastewater discharge permit under section 28-144 of this article in response to changed conditions or anticipated changed conditions.
- (f) *Reports of potential problems.*
- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might

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- cause potential problems for the POTW, the user shall immediately telephone and notify the public works director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (2) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (f)(1), above. Employers shall ensure that all employees who could cause such a discharge to occur are advised of the emergency notification procedure.
 - (3) Significant industrial users are required to notify the public works director immediately of any changes at their facilities affecting the potential for a slug discharge.
- (g) *Reports from unpermitted users.* All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the public works director as he or she may require.
 - (h) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the public works director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the public works director within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs the sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.
 - (i) *Notification of the discharge of hazardous waste.*
 - (1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and the MPCA, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261. Such notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user:
 - a. An identification of the hazardous constituents contained in the wastes;
 - b. An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and
 - c. An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.

All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection 28-148(e) of this article. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections 28-148(a), 28-148(c), and 28-148(d) of this article.

 - (2) Discharges are exempt from the requirements of paragraph (i)(1) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. 261.20(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 C.F.R. 261(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

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- (3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the public works director, the EPA regional waste management waste division director, and the MPCA authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.
- (j) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical procedures, including procedures suggested by the public works director or other parties approved by the EPA.
- (k) *Sample collection.* Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
- (1) Except as indicated in paragraphs (k)(2) and (3) below, the user must collect wastewater samples using twenty-four-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the public works director. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 C.F.R. Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.
- (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (3) For sampling required in support of baseline monitoring and ninety-day compliance reports required in subsections 28-148(a) and 28-148(c) of this article, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the public works director may authorize a lower minimum. For the reports required by subsection 28-148(d) of this article, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with the applicable pretreatment standards and requirements.
- (l) *Date of receipt of reports.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, the date of receipt of the report shall govern.
- (m) *Recordkeeping.* Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records and information obtained pursuant to any monitoring activities required

by this article, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under section 28-95 of this article. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the public works director.

- (n) *Certification of permit applications, user reports, and initial monitoring waiver.* The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with section 28-140 of this article, users submitting baseline monitoring reports in accordance with subsection 28-148(a) of this article, users submitting reports on compliance with the categorical pretreatment standard deadlines under subsection 28-148(c) of this article, users submitting periodic compliance reports required by subsection 28-148(d) of this article, and users submitting an initial request to forego sampling of a pollutant on the basis of subsection 28-148(d) of this article. The following certification statement must be signed by an authorized representative:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(Ord. No. 2013-003, § 1, 7-9-13)

Secs. 28-149, 28-150. Reserved.

DIVISION 4. DISCHARGES INTO SEWERS

Sec. 28-151. Unpolluted waters.

- (a) It shall be unlawful for any owner, occupant or user of any premises to direct into or allow any stormwater, surface water, water from air conditioning systems, oil or other material hereafter excluded by the city to drain into the sanitary sewer system. 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, and all other unpolluted drainage, shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the approving authority and other regulatory agencies.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-152. Prohibited discharges—Generally.

- (a) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.

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- (b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Any petroleum product that includes, but is not limited to gasoline, benzene, naphtha, fuel oil, nonbiodegradable cutting oil, products of mineral oil origin, or other flammable or explosive liquid, solid or gas.
 - (2) Any waters containing toxic or poisonous solids, vapors, fumes, liquids or gases 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 POTW or the receiving waters.
 - (3) Any waters or wastes having a pH lower than 5.0, or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the POTW.
 - (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in the POTW resulting in interference, 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, etc., either whole or after passage through garbage grinders, but in no case solids greater than two (2) inches in any dimension.
 - (5) Any wastewaters that would directly or indirectly result in a violation of the city NPDES permit.
 - (6) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty (140) degrees Fahrenheit using the test methods specified in 40 C.F.R. 261.21.
 - (7) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.
 - (8) Wastewater having a temperature greater than one hundred forty (140) degrees Fahrenheit, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four (104) degrees Fahrenheit.
 - (9) Trucked or hauled pollutants, except at discharge points designated by the public works director in accordance with section 28-154 of this article.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

- (c) *Supplementary limitations.* No person shall discharge wastewater containing the following described elements or compounds in excess of the following concentrations:

Ammonia[Not established]mg/l

Arsenic[0.03]mg/l

BOD₅ [444]mg/l

Cadmium[0.023]mg/l

Chromium[1.169]mg/l

Copper[0.419]mg/l

Cyanide[0.031]mg/l

Lead[0.029]mg/l

Mercury[0.033]mg/l

Molybdenum[0.052]mg/l

Nitrogen (total)[61]mg/l

Nickel[0.221]mg/l

Oil and/or grease[Best

..... management

..... practices]

Selenium[0.069]mg/l

Silver[0.00]mg/l

Total phenols[Not established]mg/l

Total suspended solids[574]mg/l

Zinc[2.135]mg/l

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The public works director may impose mass limitations in addition to the concentration-based limitations above.

- (d) *City's right of revision.* The city reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this article.
- (e) *Dilution.* No user shall increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The public works director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-153. Limitations on wastewater strength.

(a) *Pretreatment standards.*

- (1) *Federal pretreatment standards.* National Categorical Pretreatment Standards promulgated by the EPA pursuant to the Act shall be met by all users which are subject to such standards in any instance where they are more stringent than the limitations in this article unless the public works director has applied for, and obtained from the MPCA approval to modify the specific limits in the National Categorical Pretreatment Standards. When requested, an application for modification of the National Categorical Pretreatment Standards will be considered for submittal by the public works director when the POTW achieves consistent removal of the pollutants. "Consistent removal" for the purposes of this section shall mean reduction in the amount of pollutant or alteration of the nature of a pollutant which is in the influent to the POTW to a less toxic or harmless state by the time it is discharged in the effluent. The reduction or alteration must be achieved in ninety-five (95) percent of the samples taken when measured according to the procedures set forth in 40 C.F.R. 403.7(c)(2) of the general pretreatment regulations for existing and new sources of pollution.

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- (2) *State requirements.* State requirements and limitations on discharges shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitation or those in this article.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-154. Pretreatment of wastewater.

- (a) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 28-152 of this article within the time limitations specified by the EPA, the state, or the city, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the public works director for review, and shall be acceptable to him or her before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this article.
- (b) *Accidental discharge/slug discharge control plans.* The public works director shall evaluate whether each significant industrial user needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The public works director may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the public works director may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:
- (1) Description of discharge practices, including nonroutine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the public works director of any accidental or slug discharge, as required by subsection 28-148(f) of this article; and
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and measures and equipment for emergency response.
- (d) *Hauled wastewater.*
- (1) Septic tank waste may be introduced into the POTW only at locations designated by the public works director, and at such times as are established by him or her. Such waste shall not violate sections 28-136 through 28-144 of this article or any other requirements established by the city. The public works director may require septic tank waste haulers to obtain individual wastewater discharge permits.
 - (2) The public works director may require generators or haulers of industrial waste to obtain individual wastewater discharge permits or prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.
 - (3) Industrial waste haulers may discharge loads only at locations designated by the public works director. No load may be discharged without prior consent of the director. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

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- (4) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-155. Measurements, tests, analyses, sampling methods, etc.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the city's NPDES permit as implemented by the approving authority.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-156. Sanitary sewer service outside city limits.

Sanitary sewer service shall not be provided to properties outside city limits with the exception for a sanitary sewer district comprised of developed lakeshore property.

(Ord. No. 2022-5, § 1, 4-26-22)

Editor's note(s)—Ord. No. 2022-5, § 1, adopted April. 26, 2022, amended 28-156 in its entirety to read as herein set out. Former § 28-156, pertained to special agreements to accept wastes from other jurisdictions for treatment, and derived from Ord. No. 2013-003, § 1, adopted July 9, 2013.

Secs. 28-157—28-159. Reserved.

DIVISION 5. USER COMPLIANCE

Sec. 28-160. Compliance monitoring.

- (a) *Right of entry: inspection and sampling.* The public works director shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any individual wastewater discharge permit, general permit, or order issued hereunder. Users shall allow the public works director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the public works director is permitted to enter without delay for the purposes of performing specific responsibilities.
 - (2) The public works director shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling or metering of the user's operations.
 - (3) The public works director may require the user to install monitoring equipment as necessary. The location of the monitoring equipment must provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis. The monitoring facilities shall be provided in accordance with the public works director's requirements and all applicable construction

standards and specifications. The facilities shall be constructed and maintained in such a manner so as to enable the public works director to perform independent monitoring activities. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the user at the written or verbal request of the public works director and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (5) Unreasonable delays in allowing the public works director access to the user's premises shall be a violation of this article.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-161. Search warrants.

If the public works director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, the public works director may seek issuance of a search warrant from the district court.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-162. Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, general permits, and monitoring programs, and from the public works director's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the public works director, that the release of such information would divulge information, processes, or methods of protection entitled to protection as trade secrets under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should not be disseminated, the portions of a report which might disclose the trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined in 40 C.F.R. 2.302 shall not be recognized as not public data and shall be available to the public without restriction.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-163. Publication of users in significant noncompliance.

The public works director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (c), (d), or (h) of this section) and shall mean:

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- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in section 28-96 of this article;
 - (b) Technical review criteria violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by section 28-96 of this article multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils, and grease and 1.2 for all other pollutants except pH);
 - (c) Any other violation of a pretreatment standard or requirement as defined by section 28-96 of this article (daily maximum, long-term average, instantaneous limit, or narrative standard) that the public works director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of the POTW personnel or the general public;
 - (d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the public works director's exercise of his or her emergency authority to halt or prevent such a discharge;
 - (e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
 - (f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
 - (g) Failure to accurately report noncompliance; or
 - (h) Any other violation(s) which may include a violation of best management practices which the public works director determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-164. Administrative enforcement remedies.

- (a) *Notification of violation.* When the public works director finds that a user has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit or an order issued hereunder, or any other pretreatment standard or requirement, the public works director may serve upon that user a written notice of violation. Within ten (10) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the public works director. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the public works director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- (b) *Consent orders.* The public works director may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections 28-164(d) and 28-164(e) of this article and shall be judicially enforceable.

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- (c) *Show cause hearing.* The public works director may order a user which has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the public works director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.
- (d) *Compliance orders.* When the public works director finds that a user has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director may issue an order to the user directing it to come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (e) *Cease and desist orders.* When the public works director finds that a user has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:
- (1) Immediately comply with all requirements; and
 - (2) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (f) *Emergency suspensions.* The public works director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an immediate or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.
- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the public works director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings in section 28-164 of this article are initiated against the user.
 - (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the public works director prior to the date of any show cause or termination hearing under section 28-164 of this article.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(g) *Termination of discharge.* In addition to the provisions in section 28-146 of this article, any user who violates the following conditions is subject to discharge termination:

- (1) Violation of individual wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- (5) Violation of the pretreatment standards in section 28-96 of this article.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 28-164 of this article why the proposed action should not be taken. Exercise of this option by the public works director shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-165. Judicial enforcement remedies.

(a) *Injunctive relief.* When the public works director finds that a user has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director may petition the district court through the city attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The director may also seek such other action as is appropriate for legal or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(b) *Civil penalties.*

- (1) A user who has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of one thousand (\$1,000.00) dollars per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (2) The public works director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.
- (3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(c) *Criminal prosecution.* A user who willfully or negligently violates any provision of this article, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or

requirement shall, upon conviction, be guilty of a misdemeanor and shall be subject to a maximum fine or maximum period of imprisonment or both, as specified by Minnesota Statutes Chapter 609. Each additional day that a violation exists shall constitute a separate violation of this article and may be prosecuted accordingly.

- (d) *Remedies nonexclusive.* The remedies provided for in this article are not exclusive. The public works director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the director may take other action against any user when the circumstances warrant. Further, the director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-166. Affirmative defenses to discharge violations.

(a) *Upset.*

- (1) For the purpose of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3) below, are met.
- (3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and the user can identify the cause(s) of the upset;
 - b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with the applicable operation and maintenance procedures; and
 - c. The user had submitted the following information to the public works director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
 1. A description of the indirect discharge and cause of noncompliance;
 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 3. Steps being taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (4) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (5) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (6) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

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- (b) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general provisions in subsection 28-152(a) of this article or the specific prohibitions in subsection 28-152(b) of this article if it can prove that it did not know, or have reason to know, that its discharge, along or in conjunction with discharges from other sources, would cause pass through or interference and that either:
- (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
 - (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
- (c) *Bypass.*
- (1) For the purposes of this section:
 - a. Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - b. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - (2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this section.
 - (3) Bypass notification.
 - a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the public works director at least ten (10) days before the date of the bypass, if possible.
 - b. A user shall submit oral notice to the public works director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The public works director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
 - (4) Bypass.
 - a. Bypass is prohibited, and the public works director may take an enforcement action against a user for a bypass, unless:
 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

3. The user submitted notices as required under paragraph (3) of this section.
- b. The public works director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet three (3) conditions listed in paragraph (4)a. above.

(Ord. No. 2013-003, § 1, 7-9-13)

DIVISION 6. USER CHARGES

Sec. 28-167. Bases of charges and uses of revenues.

Persons discharging domestic or industrial wastes in accordance with the provisions of this article shall be charged quarterly or monthly flat rate and a service charge based on five (5) cost causative elements: flow, CBOD5, and suspended solids, NH3, and TP. Revenue generated by service charges will be used for purposes of retiring debt, operating, maintaining and replacing the city water pollution control facilities.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-168. Formula for computation of annual charges—Generally.

As an equitable share of the expenses incurred by the city in the construction, operation, maintenance and replacement of the sewerage works, each user of the city sewerage works will pay to the city an annual sum equal to the amount computed by the application of the following formula:

$$A = C + (f)(F) + (b)(B) + (ss)(S) + (nh3)(NH3) + (tp)(TP)$$

Where	A	=	Charge to user, with units of dollars per year
	C	=	Average city per connection cost for treating clear water (infiltration and/or inflow)
	f	=	Average city unit cost of wastewater collection and treatment, with units of dollars per 100 cubic feet
	F	=	Volume of wastewater from user with units of 100 cubic feet per year
	b	=	Average city unit cost of wastewater treatment chargeable to BOD, with units of dollars per pound of BOD
	B	=	Weight of BOD contributed by user, with units of pounds BOD per year
	ss	=	Average city unit cost of wastewater treatment chargeable to suspended solids, with units of dollars per pound of suspended solids
	S	=	Weight of suspended solids contributed by user, with units of dollars per suspended solids of pounds per year
	nh3	=	Average city unit cost of wastewater treatment chargeable to ammonia nitrogen with units of dollars per pound of ammonia nitrogen.
	NH3	=	Weight of ammonia nitrogen contributed by user, with units of pounds of ammonia nitrogen per year
	tp	=	Average city unit cost of wastewater treatment chargeable to total phosphorus with units of dollars per pound of total phosphorus.
	TP	=	Weight of total phosphorus contributed by user, with units of pounds of total phosphorus per year

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-169. Same—Computation of unit costs.

Average city unit costs for the formula in section 28-168 of this division shall be computed annually, and shall include operation and maintenance costs, annual construction costs and replacement costs. Costs shall be used to develop a uniform service charge for flow, CBOD5, TSS, NH3, TP, and the flat fee. An equitable distribution will be applied annually taking into consideration the actual cost-revenue pattern.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-170. Billing frequency and computation—Domestic, commercial, industrial and institutional users.

- (a) Effective January 1, 2005, domestic, commercial, industrial and institutional users of the city sewerage works that are not identified as significant industrial users shall be billed monthly as outlined in the utility fee schedule.
- (b) Statements for sewer fees shall be computed and invoiced by the city along with the other utility bills such as water and stormwater. Such statement shall be due on or before the fifth (5th) day of the next month in which the statement is mailed. Any prepayment or overpayment or charges shall be retained by the city and applied against subsequent fees.
- (c) Each billing for the consumer's sewer bill not paid when due shall incur a penalty charge as set by city council in the fee schedule

~~Those customers exceeding twenty thousand (20,000) cubic feet per quarter (based on the immediate past twelve (12) months' actual usage) shall be billed monthly during the quarter that such usage previously occurred. In determining the step rates for monthly bills, the usage amount shall be based on a full quarter of usage.~~

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-171. Pretreatment charges and fees.

The amounts to be charged by the city to users for reimbursement of its costs of setting up and operating the pretreatment program are set forth in the city's fee schedule. The charges include the following:

- (a) Charges for wastewater discharge permit applications including the cost of processing such applications;
- (b) Charges for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users;
- (c) Charges for reviewing and responding to accidental discharge procedures and construction;
- (d) Charges for filing appeals;
- (e) Charges to recover administrative and legal costs (not included in section 28-165 of this article) associated with enforcement activity taken by the public works director to address industrial user noncompliance.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-172. Annual review and report to city council of cash flows; adjustment of unit cost figures; etc.

To ensure the required financial surveillance, the approving authority shall annually review the cash flows associated with providing wastewater treatment service for the city and shall report his findings to the city council at the ~~fourth~~tenth regular meeting of each year. Any inequities or shortages of revenue caused by unforeseen changes in the cost-revenue pattern of the wastewater treatment facilities shall be remedied immediately by a city council-approved adjustment of the unit cost figures described in section 28-169 of this division. Adjusted unit figures shall be computed in accordance with the principles of this division.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-173. Wastewater service charge included as separate items on water bills.

Wastewater service charges provided for in this article 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 and payment for water services shall not be accepted without payment also of the sewer service charge.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-174. Special contracts.

When it appears to be in the best interest of the city, the council may prescribe sewer rates for particular customers of the municipal sewer system by written contract approved by the council.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-175. Failure to pay sewer bill or repeated discharge of prohibited waste cause to disconnect water or sewer service connections.

Failure of any person to pay ~~quarterly~~monthly bills for the established sewer service charge when due, or repeated discharge of prohibited waste to the city sanitary sewerage system shall be sufficient cause to disconnect all of said person's service connections to the water or sanitary sewer mains of the city.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-176. Assessment of wastewater service charges.

Wastewater service charges shall be a charge against the owner, lessee or occupant of premises and shall constitute a lien against the lot or parcel served and in the event of delinquency, the city administrator may commence legal action to collect such unpaid wastewater service charges or certify such delinquency to the county auditor to be assessed against such lot or parcel and collected with the real estate taxes.

(Ord. No. 2013-003, § 1, 7-9-13)

Sec. 28-177. Variances.

Reasonable variances to this division may be granted by the city council upon the showing of unique circumstances warranting the same.

(Ord. No. 2013-003, § 1, 7-9-13)

Secs. 28-178—28-188. Reserved.

ARTICLE IV. SEWER AND WATER IMPROVEMENTS AND ASSESSMENTS

Sec. 28-189. Oversizing of services.

Whenever improvements of water and sanitary sewer are extended to the city limits, the council may order such services oversized to serve future annexed territories and at the time of annexation shall assess the annexed benefitted properties for such improvements according to benefit.

(Code 1971, § 28-120; Ord. No. 80-24, § 4, 9-10-80)

Sec. 28-190. Reimbursement to persons paying for oversized service.

Whenever any person (as defined in section 28-96) owning land contiguous to the city limits shall petition for water and sanitary sewer, and the council shall determine that in accordance with proper planning procedures that such services should be oversized to serve future annexed territories and that as a condition of granting the petition the petitioner agrees to pay for such oversized improvements, the city shall reimburse such petitioner any amounts assessed pursuant to section 28-189 if such annexation shall occur within a period of fifteen (15) years from the time that the petitioned improvement is completed and accepted by the city.

(Code 1971, § 28-121; Ord. No. 80-24, § 4, 9-10-80)

ARTICLE V. SEWER AVAILABILITY CHARGE AND WATER AVAILABILITY CHARGE

Sec. 28-191. Definitions.

For the purpose of this article, the following phrases will have the following respective meanings:

Sewer availability charge (SAC) is a development impact fee assessed for reserve capacity, sewage treatment, and connection rights to the city sanitary sewer system.

Water availability charge (WAC) is a development impact fee assessed for water storage, supply, and connection rights to city water mains.

(Ord. No. 88-21, § 2, 1-10-89)

Sec. 28-192. Purpose; intent.

- (a) Based upon the existing and increasing demand placed upon the infrastructure of the city's water and sewer system, an applicant for a building permit to construct a new structure or convert an existing structure to:
 - (1) A residential unit, including single-family, two-family, multi-family, mobile homes, dormitories, or boarding rooms;
 - (2) A commercial, industrial, or institutional unit;

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- (3) Conversion of an existing structure from an accessory to primary use resulting in increased water usage or sewer discharge; or
 - (4) Adding to an existing structure resulting in increased water usage or sewer discharge; will be required to pay a sewer availability charge and water availability charge.
 - (b) Such charges are designed to offset the impact of new development and increase demand placed upon the municipal utilities.
 - (c) Revenues received from such charges will be designated to the sewer and water depreciation fund for replacement and upgrading of the infrastructure of the sewer and water system resulting from the increased impact.
 - (d) No connection shall be made into the municipal water or sanitary sewerage system without a permit from the city engineer and no such permit shall be issued until after the payment of a connection fee.
- (Ord. No. 88-21, § 2, 1-10-89)

Sec. 28-193. Rates and charges.

- (a) The criteria for the WAC/SAC units shall be assigned based on the schedule outlined in the utility-fee schedule.
- (b) The fees for the WAC and SAC shall be established, from time to time, in the utility-fee schedule. Nonstandard WAC/SAC fees are assessed at time of connection to the city water or sewage system for existing structures or properties due to annexation or other development have immediate access to water and sewer systems; and the property has not been previously specially assessed for benefits received. In facilities with multiple primary uses, the use resulting in the highest units of WAC/SAC shall be the basis for calculation, unless otherwise noted.
- (c) The following policy shall apply to promote the reuse of existing buildings:
 - (1) In the event reuse requires addition of new water/sewer capacity (installation of additional or larger service lines) to the building, the units of WAC/SAC shall be calculated based on the difference between the new use and the immediate prior use. Fire suppression service lines shall be exempt from WAC charges.
 - (2) Reuse not requiring a building permit or a use deemed to have the same or a lower water/sewer demand from the immediate prior use on the basis of the WAC/SAC schedule of units shall be exempt from additional WAC/SAC charges at that time.
 - (3) All other reuse shall be charged units of WAC/SAC based on the difference between the new use and the immediate prior use.
 - (4) No credits or refunds shall be issued for changes where the new use has a lower number of units than the previous use.

(Ord. No. 88-21, § 2, 1-10-89; Ord. No. 2004-25, § 1, 10-26-04; Ord. No. 2020-10, § 1, 7-28-20)

Sec. 28-194. Collection; receipts for payment; report to city administrator.

- (a) The city administrator or his designee shall receive all monies from applicants for building permits in which the above-mentioned conditions are met.

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- (b) Upon payment by the building permit applicant for the WAC and SAC as assigned and determined by the city administrator or his designee, the city administrator shall give such a person a receipt and endorse on the proper places of such receipt the time and amount of payment.
 - (c) It shall be the duty of the city administrator or his designee to preserve copies of statements delivered to the city and return the same with an official receipt for the amount collected to the financial records in the office of the city administrator on or before the last day of each month.

(Ord. No. 88-21, § 2, 1-10-89)

Sec. 28-195. Reserve clause.

The city reserves the right to review the assigned WAC and SAC one year after the user has commenced water usage and sewer discharge to determine if the assignment was proper and justified.

(Ord. No. 88-21, § 2, 1-10-89)

Secs. 28-196—28-199. Reserved.

ARTICLE VI. STORMWATER DRAINAGE SYSTEM

DIVISION 1. GENERALLY

Sec. 28-200. Purpose and policy.

It is the intent and purpose of this article to establish a stormwater drainage utility within the city. The city stormwater system shall be operated as a public utility pursuant to Minnesota Statute Section 444.075. The stormwater utility is hereby established to build, construct, reconstruct, repair, maintain, enlarge, improve, or in any other manner obtain stormwater drainage systems including mains, retention/detention facilities, drainage channels, ditches, waterways and other appurtenances and related facilities for the collection, conveyance, treatment, and disposal of stormwater. The city shall maintain and operate the same pursuant to Minnesota Statute Section 444.075 from which revenues will be derived subject to the provisions of this section of Minnesota Statute. ~~The stormwater drainage utility shall be administered through the public works department.~~

(Ord. No. 2001-02, 3-27-01)

Sec. 28-201. Definitions.

For the purposes of this article, the following words, terms, and phrases shall have the following respective meanings ascribed to them by this section:

Approving authority means the city council of the City of Faribault.

CBD Mixed Use means a land use in the City's Central Business District zoning area with commercial/industrial/institutional mixed with residential units

Monthly charges means the calculated stormwater fee for each unit or parcel of land over a one (1) month period of time.

Natural areas means parcels of land that have remained in an undisturbed state without structures.

~~Quarterly charges means the calculated stormwater fee for each unit or parcel of land over a three (3) month period of time.~~

~~Unit means each single-family residential property or in the case of a multi-multi-family structure each individual dwelling unit.~~

~~Parcel means each piece of land with a corresponding identifying tax number assigned by the county auditor.~~

~~Public water of the U.S. means all protected wetlands, streams, rivers, and lakes under the jurisdiction of the State of Minnesota.~~

~~Residential Lot Equivalent (RLE) means a unit of measurement equal to 3,500 square feet of impervious surface. Each single family detached residential property is considered to be one (1) RLE regardless of parcel size or impervious surface coverage. All other developed property shall be individually assigned a certain number of RLE's bason on property classification, size, impervious surface and/or storm water runoff per Sec. 28-111 Rate Table.~~

~~Undeveloped means a piece or parcel of land that is absent any structures, parking lots, impervious surfaces or principle land use.~~

(Ord. No. 2001-02, 3-27-01)

Secs. 28-202, 28-203. Reserved.

Editor's note(s)—Ord. No. 2009-13, § 1, adopted Oct. 13, 2009, repealed §§ 28-202 and 28-203 in their entirety.

Formerly, § 28-202 pertained to on private property—city inspection; maintenance by owner, and derived from Ord. No. 2001-02, adopted Mar. 27, 2001; and § 28-203 pertained to discharge of wastewater or other polluted water to storm sewer system, and derived from Ord. No. 2001-02, adopted Mar. 27, 2001.

Sec. 28-204. Violations of [this] article.

- (a) Any person found to be violating any provision of this article shall be served by the city with written notice stating that nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- (b) Any person who shall continue any violation beyond the time limit provided for in subsection (a) of this section, shall be guilty of a petty misdemeanor. Each day in which any such violation shall continue shall be deemed a separate offense.
- (c) Any person violating any of the provisions of this article shall become liable to the city for any expense, loss of damage occasioned the city by reason of such violation. (Code 1971, 28-114).

(Ord. No. 2001-02, 3-27-01)

Sec. 28-205. Responsibility; owners of rental properties.

Where buildings served by the municipal stormwater system are occupied by tenants, the owners of such buildings shall be responsible for the stormwater charges even though such stormwater charges may be paid by the tenant.

(Ord. No. 2001-02, 3-27-01)

Secs. 28-206—28-209. Reserved.

- CODE OF ORDINANCES
Chapter 28 - WATER AND SEWERS
ARTICLE VI. - STORMWATER DRAINAGE SYSTEM
DIVISION 2. STORMWATER UTILITY FEES

DIVISION 2. STORMWATER UTILITY FEES

Sec. 28-210. Fees.

The city's stormwater utility provides benefits to property owners and residents and the level of benefit and service received is largely dependent upon the amount of surface water run-off generated by a specific parcel of land and that the amount of runoff is a factor of the type of land use, amount of open/undeveloped space, and size of parcel.

(Ord. No. 2001-02, 3-27-01)

Sec. 28-211. Rate table.

All property within the city limits shall be charged and the owner of said property shall pay the fee amounts by multiplying the current stormwater utility fee as outlined in city's utility fee schedule by the property's RLE units as determined below. All rates are ~~quarter~~monthly charges and shall be billed ~~quarterly~~monthly to all parcels in combination with other municipal utility bills. Property owners with multiple adjacent parcels under common ownership with a single utility account may request to have all parcels and use shall be deemed as one parcel for fee calculation. It shall be the property owners responsibility to notify the City if a change in ownership occurs or if separate utility accounts for each parcel are requested.

<u>Classification (based on use)</u>	<u>RLE's</u>
<u>Single-Family Detached Homes</u>	<u>1.0</u>
<u>Twinhomes/Duplexes/Multi-family up to 7 units/parcel</u>	<u>0.50</u>
<u>Multi-family (8 or more divided equally across utility accounts</u>	<u>1 RLE/3,500 sf of impervious surface</u>
<u>CBD Mixed Use (Residential with commercial/industrial</u>	<u>0.50 RLE per residential unit and 1</u> <u>RLE/3,500 sf of impervious surface</u>
<u>Commercial/Industrial/Institutional</u>	<u>1 RLE/3,500 sf of impervious surface</u>

If a commercial/industrial/institutional property under single ownership has multiple units/tenants with separate city utility accounts, unless the property owner may requests to have the total parcel stormwater utility fee split amongst the tenants by a percentage provided by the property owner, the City shall calculate the total RLE's for the parcel and divide the RLE's equally amongst the utility accounts tied to that parcel. It is the property owner's responsibility to request this billing split and notify the City of any changes to the split. If a property only has one City utility account, the entire stormwater utility fee will be billed to that account.

(Ord. No. 2001-02, 3-27-01; Ord. No. 2003-34, § 1, 12-9-03; Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-212. Exemption from fee.

The following land uses are deemed exempt from stormwater ~~drainage-utility~~ fees. The exemptions are based on the assumption that the land use has not created an increase to the historical natural stormwater runoff or the land use is for the benefit of the general public.

- (1) Parks and open space.
- (2) Undeveloped property (i.e. no structures, ~~pavements or other impervious surfaces~~).
- (3) Natural areas.
- (4) Cemeteries.
- (5) Public parking lots.
- (6) Railroads.
- (7) Public right of way.
- ~~(8) Properties that own and maintain a storm system to a water of the U.S.~~

(Ord. No. 2001-02, 3-27-01)

Sec. 28-213. Property classification.

All property shall be classified ~~either residential or commercial/industrial/institutional~~ under one of the classifications in Sec. 28-211 Rate Table for determination of stormwater utility fees. The city administrator or his or her designee shall make all determinations regarding property classifications and calculation of fees in accordance with the ~~utility~~ fee schedule.

(Ord. No. 2001-02, 3-27-01; Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-214. Rate table adjustment.

The city council shall annually review the fees as established and may adjust the fees by ordinance updating the fee schedule to reflect maintenance and operation cost charges, construction cost charges, and/or improvement schedule changes.

(Ord. No. 2001-02, 3-27-01)

Sec. 28-215. Credits and appeals.

The council may adopt policies recommended by the city administrator, by resolution, for adjustment of the stormwater drainage fee for parcels based upon a survey completed by a licensed land surveyor registered in the State of Minnesota or hydrologic data completed by a professional engineer or hydrologist licensed in the State of Minnesota, to be supplied by property owners, which data demonstrates a hydrologic response substantially different from the standards. Every individual has the right to appeal to the city council. Such adjustments of stormwater drainage fees shall not be made retroactively.

(Ord. No. 2001-02, 3-27-01)

Sec. 28-216. Payment of fee.

Statements for stormwater drainage fee shall be computed and invoiced by the city along with the other utility bills such as sewer and water. Such statement shall be due on or before the ~~tenth-fifth~~ (10th5th) day of the next month in which the statement is mailed. Any prepayment or overpayment or charges shall be retained by the city and applied against subsequent fees.

(Ord. No. 2001-02, 3-27-01)

Sec. 28-217. Recalculation of fee.

If a property owner or person responsible for paying the stormwater drainage fee questions the correction of an invoice for such charge, such person may have the determination of the charge recomputed by written request to the ~~public works director~~ city administrator or his or her designee made within two (2) months of mailing of the invoice in question by the city.

(Ord. No. 2001-02, 3-27-01)

Sec. 28-218. Penalty for late payment.

Each billing for stormwater drainage fees not paid when due shall incur a penalty charge as set by city council in the ~~utility~~ fee schedule.

(Ord. No. 2001-02, 3-27-01; Ord. No. 2004-25, § 1, 10-26-04)

Sec. 28-219. Certification of past due fees on taxes.

Any past due stormwater drainage fees in excess of ninety (90) days past due on October 1 of any year may be certified to the county auditor for collection with real estate taxes in the following year pursuant to Minnesota Statutes Section 444.075, subdivision 3. In addition, the city shall also have the right to bring a civil action or to take other legal remedies to collection unpaid fees.

(Ord. No. 2001-02, 3-27-01)

ARTICLE VII. STORMWATER POLLUTION PREVENTION AND WETLAND PROTECTION⁶

⁶Editor's note(s)—Ord. No. 2009-13, § 2, adopted Oct. 13, 2009, amended article VII in its entirety. Previously, article VII pertained to similar subject matter and derived from Ord. No. 2006-27, § 1, adopted Nov. 28, 2006.

Sec. 28-220. Purpose of article.

The purpose of this article is to control or eliminate stormwater pollution along with soil erosion and sedimentation within the city through requirements and standards for conservation practices and planning activities. This article also regulates wetlands and the areas around wetlands. Wetlands maintain the water quality and are critical to stormwater management.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-221. Definitions.

For purposes of this article, the following words, terms and phrases shall have the following meanings respectively ascribed to them in this section:

Applicant means any person, entity or group that applies to the city for a building permit, subdivision approval, or a grading permit. Applicant also means that person or entity's agents, employees, contractors, subcontractors and others acting under the person, entity or group's direction.

Best management practices or *BMPs* means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction phasing, minimizing the length of time soil areas are exposed, prohibition of practices, and other management practices published by state or designated area-wide planning agencies.

Common plan of development or sale means a contiguous area where multiple separate and distinct land disturbance activities may be taking place at different times, or on different schedules, but under one proposed plan of development.

Discharge means the release, conveyance, channeling, runoff, or drainage of stormwater including snow melt, from a construction site.

Energy dissipation means methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to, aprons, riprap, splash pads and gabions that are designed to prevent erosion.

Erosion means any process that wears away the surface of the land by the action of water, wind, ice or gravity. Erosion can be accelerated by the activities of people or nature.

Erosion control means the methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

FEMA means the Federal Emergency Management Agency.

Final stabilization means that all land disturbance activities on the site have been completed, and that a uniform (evenly distributed, without any large bare areas) perennial vegetative cover with a density of seventy-five (75) percent of the total of all unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. The sowing of grass seed is not considered to be final stabilization. Where agricultural land is involved, final stabilization shall require that the site be returned to its preconstruction agricultural use.

Grading permit means a written warrant or license granted by the city to allow land disturbance activities.

Impaired water means all bodies of water that are listed on the Minnesota Pollution Control Agency's List of Impaired Waters.

Impervious surface means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than existed

prior to any development of the property. Examples include, but are not limited to, rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

Land disturbance activity/activities means any activity or activities on a site that may result in soil erosion from water or wind. It shall also mean any movement of sediments upon lands or into or upon waters within the city's jurisdiction, including construction, clearing and grubbing, grading, excavating, transporting and filling of land. Within the context of this article, land disturbance activities shall not include:

- (1) Activities such as home gardens or residential landscaping, or other repairs or maintenance work that creates less than five thousand (5,000) square feet of exposed soil or impervious surface;
- (2) Additions or modifications to an existing ~~single-single~~ family structure that results in creating less than five thousand (5,000) square feet of exposed soil or impervious surface;
- (3) The construction, installation, and maintenance of fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating less than five thousand (5,000) square feet of exposed soil or impervious surface;
- (4) The tilling, planting, or harvesting of agricultural, horticultural, or silvicultural crops; and
- (5) Emergency work performed in order to protect life, limb, or property. If SWPPP would have been required for the emergency work pursuant to this article, then the disturbed land area shall be shaped and stabilized in accordance with the requirements set forth in this article as soon as possible after the emergency situation is under control.

MnDOT means the Minnesota Department of Transportation.

MPCA means the Minnesota Pollution Control Agency.

Native vegetation means plant species indigenous to or naturalized to Minnesota and classified as native to Minnesota by the Minnesota Department of Natural Resources.

NPDES General Stormwater Permit for Construction Activity means the National Pollutant Discharge Elimination System General Stormwater Permit for Construction Activity as required by the Minnesota Pollution Control Agency.

Ordinary high water level means the boundary of water basins, watercourses, public waters, and public waters wetlands, and:

- (1) The ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- (2) For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- (3) For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks.

Sediment means the product of an erosion process which consists of solid material that may be mineral or organic that is in suspension, is being transported, or has been moved by water, wind, or ice, and has come to rest on the earth's surface either above or below the water level.

Sedimentation means the process or action of depositing sediment.

Sediment control means the methods employed to prevent sediment from leaving the site. Examples of sediment control practices are silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

Soil means the unconsolidated mineral or organic material on the immediate surface of the earth. For the purposes of this article, temporary stockpiles of clean sand, gravel, aggregate, concrete or bituminous materials are not considered soil.

Stabilized or stabilization means the exposed ground surface, after it has been covered by sod, an erosion control blanket, riprap, pavement or other material that prevents erosion. Simply sowing grass seed is not considered stabilization.

Steep slope means any slope steeper than fifteen (15) percent of rise for every one hundred (100) feet of horizontal run.

Stormwater shall mean any precipitation runoff, stormwater runoff, snow melt off, and any other surface runoff and drainage.

Stormwater pollution prevention plan or SWPPP means a plan for stormwater drainage that includes erosion prevention measures and sediment controls that, when implemented, will minimize soil erosion on a site and minimize off-site non-point pollution to the maximum extent possible.

Structure means any improvement that is manufactured, constructed or erected which is normally attached to or positioned on a site, including, but not limited to, portable structures, earthen structures, roads, parking lots and paved storage areas.

Subdivision shall mean land that is divided for the purpose of sale, rent, or lease, including a planned unit development.

Very steep slope means any slope steeper than one foot of rise for each three (3) feet of horizontal run (a slope of thirty-three (33) percent).

Waters of the state shall mean all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Wet detention facilities means permanent man-made structures that contain permanent pools of water that are used for the temporary storage of stormwater runoff.

Wetlands shall mean those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes:

- (1) A predominance of hydric soils;
- (2) Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and
- (3) Under normal circumstances support a prevalence of such vegetation.

Wetland buffer strip means a protective vegetated zone located adjacent to a water of the state or a wetland, that is subject to direct or indirect human alteration. A wetland buffer strip is an integral part of protecting an aquatic ecosystem of a body of water by trapping sheet erosion, filtering pollutants, reducing channel erosion and providing adjacent habitat.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-222. Scope of article.

Except in instances where a variance from this article is granted by the city, any applicant proposing a land disturbance activity within the city that is one-half (½) acre or greater shall apply to the city for a grading permit and shall submit a grading plan with the application. Except in instances where a variance from this article is granted by the city, any applicant proposing a land disturbance activity within the city that is one acre or greater, shall apply to the city for a grading permit and shall submit a grading plan and a SWPPP with the application. No land shall be disturbed until the grading plan and SWPPP, if required, is approved by the city engineer or his or her designee and the grading permit is issued.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-223. ~~Swppp~~ SWPPP and grading permit application submittal procedures.

Every applicant performing a land disturbance activity that requires a SWPPP must submit a SWPPP and grading plan along with a completed grading permit application to the city for review. The city shall not issue any grading permit, approve any land use application or issue any building permit until the grading permit application, including the grading plan and SWPPP, if required or a variance from the requirements of this Code have been approved in strict conformance with this article. All land use approvals and building permits for the site in question must not be issued until the applicant has received approval of its grading permit application, including the grading plan and SWPPP, if required by the city engineer or his or her designee.

Individual lots in a common plan of development or sale shall be subject to the requirements of this article and the NPDES General Stormwater Permit for Construction Activity, but shall not be required to obtain individual grading permits for each lot, so long as a grading permit has been issued for the entire common plan of development or sale.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-224. Grading permit review and issuance.

The city engineer or his or her designee shall review the applicant's grading permit application, grading plan and SWPPP, if required. The grading permit shall be issued by the city engineer or his or her designee to the applicant upon approval of the application if all requirements of this article are met.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-225. Grading plan contents.

The grading plan, if required, must include all of the items that are specified in section 27-230.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-226. ~~Swppp~~ SWPPP contents.

At a minimum, the applicant's SWPPP must include all items as required by the NPDES General Stormwater Permit for Construction Activity and shall contain the following information:

- (1) The name and address of the applicant;

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- (2) A legal description of the site;
 - (3) A map of all adjacent areas to the site that identifies all waters of the state, subdivisions, roads, utilities and other areas which might be affected by the land disturbance activity. If SWPPP involves directing some or the entire site's runoff to adjacent properties, the applicant shall obtain from adjacent property owners any necessary easements to permit the runoff to flow onto their properties;
 - (4) A map of the existing site conditions that includes the existing topography of the site, the location of any steep and very steep slopes, the location of existing drainage systems and patterns, the types of soils, the location of any waters of the state, the location of any vegetative cover, the location of any one hundred (100) year floodplain boundaries and the locations of any existing and proposed wetland buffer strips;
 - (5) A description of the project, including the nature and purpose of the land disturbance activity and a description of the grading work, utility work, and building construction involved;
 - (6) A schedule of the start and completion dates of each land disturbance activity on the site, including the estimated dates of installation of the required erosion prevention measures for each phase and the construction schedule;
 - (7) A site construction plan that includes the location of the proposed land disturbance activities and any stockpile locations;
 - (8) A designation of the site's areas that have the potential for serious erosion problems;
 - (9) A description of the proposed erosion and sediment control measures to be undertaken, including the methods that will be used to control erosion and sedimentation on the site, both during and after construction;
 - (10) A description of the proposed permanent stabilization measures to be taken, including stabilization specifications, time frames and schedules;
 - (11) The location of all existing and proposed permanent and temporary sedimentation basins;
 - (12) A description of the method to be used to dispose of temporary erosion and sediment control measures;
 - (13) A description of the method to be used to maintain the temporary and permanent erosion and sediment controls;
 - (14) A description of the method to be used to collect and dispose of sediment and floating debris; and
 - (15) A street sweeping schedule for the site.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-227. SWPPP performance standards.

At a minimum, stormwater pollution prevention practices set forth in the SWPPP and all work on the site must conform to the requirements as stated in the most current versions of the NPDES General Stormwater Permit for Construction Activity, the MPCA publication "Protecting Water Quality in Urban Areas" and the MnDOT publication "Standard Specifications for Construction". In addition, all SWPPPs shall meet all of the following requirements:

- (1) All grading plans and building site surveys must be reviewed by the city engineer or his or her designee for the effectiveness of erosion control measures in the context of the site's topography and drainage;

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- (2) The site's activities shall be scheduled so that they lessen impacts on the creation of erosion and sedimentation creation, by minimizing the amount of exposed soil;
 - (3) All exposed soils and soil stockpiles must be stabilized at all times in accordance with the time frame or schedule that is specified in the SWPPP;
 - (4) The construction and stabilization of any steep or very steep slope must be designed by a licensed professional engineer;
 - (5) All permanent vegetation must be established in accordance with the time frame or schedule that is specified in the SWPPP;
 - (6) Sediment damage to adjacent properties, waters of the state, wetlands and unique vegetation (such as historical specimen trees or plant communities, plants on the limits of their natural range, and canopy trees or shrubs that protect rare or endangered plants growing under them) shall be prevented;
 - (7) Sufficient silt fences shall be installed to hold all sheet flow runoff generated at an individual site, until it can either infiltrate or seep through silt fence's pores;
 - (8) Precautions must be taken to contain sediment, when working in or crossing waters of the state or wetlands;
 - (9) All outlets to waters of the state or wetlands must be stabilized within the timeframes as specified in the NPDES General Stormwater Permit for Construction Activity;
 - (10) Accelerated channel erosion must not occur at any time;
 - (11) Stormwater runoff from the site shall be controlled as follows:
 - (a) Unless precluded by heavy snow cover, all exposed inactive disturbed soil areas shall be stabilized with sod or weed free anchored mulch according to timeframes as specified in the most current version of the NPDES General Stormwater Permit for Construction Activity.
 - (b) Temporary sedimentation basins are required for disturbed areas greater than ten (10) acres. Temporary sedimentation basins must meet the location and design requirements as set forth in the most current version of the NPDES General Stormwater Permit for Construction Activity. Impaired waters and special waters may have additional specific requirements regarding temporary sedimentation basins that must be followed.
 - (c) Temporary sedimentation basins are encouraged, but not required for disturbed areas less than ten (10) acres, unless otherwise required by the city engineer or his or her designee. However, the applicant shall still be responsible for installing erosion and sediment controls at locations specified in its SWPPP.
 - (12) Where a site's ultimate development replaces surface vegetation with one or more acres of impervious surface and all stormwater runoff has not been accounted for in the SWPPP, the stormwater runoff must be discharged to a wet sedimentation basin or by an-other approved method prior to entering any waters of the state;
 - (13) At a minimum, stormwater wet detention facilities must conform to the most current technology as reflected in the MPCA's publications, "Protecting Water Quality in Urban Areas" and "The Minnesota Stormwater Manual" and the requirements found in the most current version of the NPDES General Stormwater Permit for Construction Activity.
 - (14) All storm drain inlets must be protected during construction on the site with either catch basin debris catchers or similar measures which allow for emergency overflow situations and they meet accepted design criteria, standards and specifications set forth by the city and MnDOT's most current standard specifications for construction;

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- (15) All city storm sewers must be protected from sediment by utilizing inlet controls that are approved by the city engineer or his or her designee;
 - (16) Private and public utility construction areas must be restabilized as soon as possible;
 - (17) All paved roads must be protected from sediment and mud that is brought in from access routes. All construction entrances to the site shall contain temporary rock, stone pads, concrete or steel wash pads or equally effective means of preventing vehicles from tracking sediment from the site. All stabilized construction entrances shall be built to MnDOT and city specifications. This material shall be in place prior to the commencement of grading activities on the site;
 - (18) Streets must be cleaned and swept whenever tracking of sediments occurs and before site work is idle for a period of more than twenty-four (24) hours;
 - (19) All waste and unused materials (including, but not limited to, garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials) shall be properly disposed of and not allowed to be carried off site by storms, wind, etc.;
 - (20) The applicant must properly install all erosion and sediment control BMP's before any construction activity begins. Such erosion and sediment control BMP's may be adjusted after installation during dry weather to accommodate short-term activities, such as those allowing the passage of very large vehicles. As soon as this activity is completed or before the next runoff event occurs, the erosion and sediment control BMP's must be returned to the configuration specified in SWPPP;
 - (21) Stormwater runoff around disturbed areas or channels must be protected; and
 - (22) Water removed from the site by pumping that is impacted by the construction activities must be treated by temporary sedimentation basins, silt sock, geotextile filters, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators, vegetated swales or other appropriate controls. No water shall be discharged in a manner that causes erosion or flooding of the site, receiving channels, adjacent property or a wetland using methods for energy dissipation.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-228. Permanent structural best management practices.

- (1) The applicant shall use permanent structural best management practices in order to achieve the applicable minimum control requirements as specified by the most current version of the NPDES General Stormwater Permit for Construction Activity. The applicant shall provide justification for the best management practice(s) selected.
- (2) The applicant shall install or construct all permanent stormwater management facilities necessary to manage increased runoff so that the peak stormwater discharge rates from the stormwater treatment basins do not exceed the predevelopment twenty-four (24), two (2) year, ten (10) year and one hundred (100) year peak stormwater discharge rates. The predevelopment stormwater discharge rates shall be based on the use of the property during the past ten (10) years. All calculations and information used to determine the peak stormwater discharge rates shall be submitted by the applicant with the grading permit application. Accelerated channel erosion must not occur as a result of the proposed land disturbing or development activity. In lieu of installing all or a portion of the required permanent stormwater management facilities, an applicant may agree to make an in-kind or monetary contribution to the development and maintenance of a community stormwater management facility that is designed to serve multiple properties that shall be addressed as part of a development agreement.
- (3) The following permanent stormwater management practices must be investigated in developing the stormwater management portion of the SWPPP:

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- (a) Protect and preserve as much natural or vegetated area on the site as possible;
 - (b) Minimize impervious surfaces;
 - (c) Direct runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches;
 - (d) Flow attenuation of treated stormwater by the use of open vegetated swales and natural depressions;
 - (e) Utilize stormwater wet detention facilities (including percolation facilities); and
 - (f) Reduce the need for permanent stormwater management facilities by incorporating the use of natural topography and land cover such as natural swales and depressions as they existed prior to the land disturbance activities to the degree that they can accommodate the additional flow of treated water without compromising the integrity or quality of the body of water.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-229. Minimum design standards for permanent stormwater facilities.

- (1) Permanent stormwater facilities must incorporate the most current technology as reflected in the current version of the MPCA publications "Protecting Water Quality in Urban Areas" and the "Minnesota Stormwater Manual" and the current design requirements set forth in the NPDES General Stormwater Permit for Construction Activity.
- (2) A permanent stormwater facility's design shall take into account seasonal changes that may affect system function, such as infiltration capabilities during frozen winter months and must be designed so that proper treatment can still be achieved during these times.
- (3) Long-term inspection and maintenance plans for privately-owned permanent stormwater management facilities are required. They must be submitted with the grading permit application to the city for review and approval.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-230. Grading performance standards.

- (1) Upon completion of project grading, areas to be dedicated to the city for park purposes shall be left in an acceptable condition. The parks and recreation director or his or her designee shall inspect the area(s) before final acceptance by the city. Grading requirements for the park area are as follows:
 - (a) The park must be graded to a condition in order to permit mowing that is of a grade that is not rough or uneven. All clods of soil, rocks, sticks and brush must be removed;
 - (b) There must be at least six (6) inches of topsoil over the entire area;
 - (c) Drainage must be provided from the area; and
 - (d) If the park abuts a street, a four (4) foot perimeter must be sodded. The remaining disturbed park area must be stabilized with disc-anchored mulch and seeded with MnDOT seek mix 260 or its equivalent.
- (2) The city shall perform a grading inspection before preparation of any required as-built plan. The city shall issue a punch list to the applicant of any items requiring corrective action, if necessary. Punch list items shall be completed by the applicant and approved by the city prior to submitting any required as-built plan.
- (3) Upon completion of project grading of one acre or greater, the applicant shall submit to the city electronic files of the as-built drawing of the project in AutoCAD drawing (.dwg) and text file (.txt) format for its review and approval. The text file shall ~~including~~include a northing, easting, description and elevation for each point.

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The drawing shall be based on the current Rice County coordinate system and be 1"=50' scale or larger. No building permits will be issued until the as-built drawing has been approved by the city. Information on the as-built drawing must include the following information:

- (a) Contact information for the engineering firm, developer, owner and contractor;
 - (b) A north arrow;
 - (c) A location map indicating the vicinity of the site;
 - (d) Two (2) foot contour information that includes contour labeling and extends a minimum of two hundred (200) feet beyond the property boundary that shows features such as buildings, structures, walls, trees, fences, etc., and any hydrologic features such as wetlands, ponds, lakes and streams that are wholly or partially encompassed by the project perimeter;
 - (e) Directional arrows to indicate the site and lot drainage directions;
 - (f) Detailed information on stormwater ponds, wetlands, lakes and streams which must include the following:
 - i. The normal water elevation and one hundred (100) year design storm high water level;
 - ii. The ordinary high water level for all wetlands on the site, if available;
 - iii. Whether the streams on the site are protected by the Department of Natural Resources;
 - iv. Wetland delineations for any wetlands on the site along with the location of any required wetland buffer monument;
 - v. Constructed stormwater pond cross sections showing the depth in feet; and
 - vi. The location of any FEMA floodplain or floodway as shown on the most current FEMA Flood Insurance Rate Maps that is located on the site.
 - (g) If the property involves more than one lot, information on the individual lots, which must include the following:
 - i. The type of structure;
 - ii. The lowest ground elevation adjacent to the building;
 - iii. Lot corner spot elevations;
 - iv. Mid-point side lot spot elevations;
 - v. Spot elevations at any high points or drainage breaks;
 - vi. Spot elevations where drainage swales intersect lot lines; and
 - vii. Spot elevations where drainage and utility easements intersect with lot lines;
 - (h) All existing and proposed easements and outlots;
 - (i) All adjacent plats, parcels, property lines, section lines, streets and underground utilities (both public and private); and
 - (j) Other items as required by the city.
- (4) Failure by the applicant to complete and submit the required as-built drawing shall result in the city completing the as-built drawing and deducting the costs of preparing the drawing from the applicant's financial security.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-231. Wetlands and wetland buffer strips.

In order to protect all wetlands, this article incorporates by reference the Minnesota Wetland Conservation Act of 1991, M.S. §§ 103G.222—103G.2373 (hereinafter referred to as the "WCA") and any future amendments to the WCA adopted by the legislature. Any activities with respect to wetlands that are exempted from the provisions of the WCA may in some instances not be exempted from the requirements of this article. The provisions of this article pertain to all wetlands within the city, including any that are regulated by other entities.

- (1) *Minimum protections for wetlands during construction on the site:*
 - (a) Any runoff from the site must not be discharged directly into any wetland without appropriate quality and quantity stormwater runoff control, depending on the individual wetland's sensitivity classification as determined by the board of soil and water resources.
 - (b) All work by the applicant in and around wetlands must be conducted using the following standards: avoid activities that may directly or indirectly destroy or diminish the wetland; limit the degree or magnitude of the wetland-related activity; repair, rehabilitate, or restore the affected wetland environment with one wetland of at least equal value; perform preservation and maintenance operations on the wetland throughout any activity on the site.
 - (c) The Minnesota Pollution Control Agency's Stormwater Best Management Practices shall be adhered to at all times during the construction process in order to avoid any erosion and sedimentation to the wetland.
- (2) *Assessment of wetlands and wetland buffer strips:*
 - (a) It is the responsibility of the applicant to determine whether a wetland exists on a site or a structure setback from a wetland on an adjacent property is required. The applicant must delineate and document the boundaries of any wetlands on the site in a report in accordance with the WCA requirements. For applications involving property containing a wetland submitted after the date this article is effective and unless otherwise exempted, a permanent wetland buffer strip must be maintained around each wetland located on or adjacent to the site along with structure setbacks required by this article.
 - (b) The type of wetland buffer strip that is required shall be determined by the functional value of the wetland through the results of a Minnesota Routine Assessment Method ("MNRAM") assessment that shall be conducted by the applicant. Wetlands are classified as high, medium, or low quality based on the MNRAM assessment.
- (3) *Required submittals.* When a wetland buffer strip is required by this article, the following must be delivered to the city before the city will issue any building permits for the site:
 - (a) Reports of the applicant's MNRAM assessment and wetland delineation for the site;
 - (b) An executed conservation easement in favor of the city for protection of the wetlands and wetland buffer strips on the site. The easement must legally and geographically describe the boundaries of the wetlands and wetland buffer strips, wetland buffer strip markers and their locations and prohibit any structures, paving, mowing, introduction of non-native vegetation, cutting, filling, dumping, yard waste disposal, fertilizer application or removal of the wetland buffer strip markers within the wetland buffer strip or the wetland;
 - (c) Evidence that the easement document was recorded in the Rice County recorder's office along with a duplicate original of the easement document; and
 - (d) Proof that the wetland buffer strip markers have been installed.

- | MNRAM Wetland Classification | High Quality | Medium Quality | Low Quality |
|---|--------------|----------------|-------------|
| Wetland buffer strip minimum width: | 40 feet | 25 feet | 15 feet |
| Minimum structure setback:
(from the outer edge of the wetland buffer strip) | 15 feet | 15 feet | 15 feet |

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and on all common lot lines. The marker may be purchased from the city at cost and must be installed before building permits are issued.

- (8) *Wetland buffer strip vegetation requirements.* Where acceptable predevelopment natural vegetation exists in a wetland buffer strip, the retention of that vegetation in an undisturbed state shall be required. A wetland buffer strip has acceptable natural vegetation if it has a continuous, dense layer of perennial grasses, trees, and/or shrubs that have been uncultivated or unbroken for at least ten (10) consecutive years.
- (9) *Encroachment into wetland buffer strips and wetlands.* All wetland buffer strips and wetlands must be kept free of all structures, including, but not limited to, fences and play equipment and shall stay in an undisturbed state. Patios and decks may encroach up to a maximum of six (6) feet into wetland buffer strip setback areas. Porches shall not encroach into wetland buffer strip setback areas. All structures on a site that are intended to provide access across a wetland (such as boardwalks) are prohibited on a wetland buffer strip or wetland unless a wetland permit is obtained from the Rice County Soil and Water Conservation District. Wet detention facilities may encroach into wetland buffer strips, provided that the amount of the wetland buffer strip encroached upon does not exceed fifty (50) percent of the total area required for such ponding, and provided that the amount of wetland buffer strip encroached upon does not exceed fifty (50) percent of the total area required for the wetland buffer strip with the exception of instances where two (2) cell water quality ponding that is approved by the city is utilized.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-232. Maintenance requirements.

The applicant shall be responsible at all times for the maintenance and proper operation of all erosion prevention and sediment control measures. The applicant shall also inspect, maintain and repair all disturbed surfaces, erosion prevention measures, sediment control measures and soil stabilization measures on the site at least once every seven (7) days and within twenty-four (24) hours after every storm or snow melt large enough to result in runoff from the site (approximately one-half (½) inch or more in a twenty-four (24) hour period) until the land disturbance activity has ceased. Inspections need to only occur once per month during winter months during conditions when the ground is frozen, provided that any snow melt inspections are still completed. Thereafter, the applicant shall continue to perform these responsibilities at least once every seven (7) days until final stabilization. The applicant shall maintain a record of all of its activities required by this article for inspection by the city upon request. All inspections and maintenance shall conform to the requirements as outlined in the NPDES General Stormwater Permit for Construction Activity.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-233. Inspection.

The applicant shall allow the city engineer or his or her designee access to the site at all times for the purposes of inspection in order to ensure compliance with the SWPPP, the NPDES General Stormwater Permit for Construction Activity and requirements of this article. The city's inspections shall include reviewing the location, maintenance and effectiveness of any best management practices and reviewing the applicant's weekly inspection records. If, upon inspection of the site, the city finds that any private stormwater management facilities or erosion prevention and sediment control measures require maintenance, repair or replacement, but such deficiencies do not create a critical or imminent threat to adjacent properties, the environment, or other stormwater facilities, the applicant shall be sent a written notice that includes the city's findings, what actions are required to correct the situation and date or dates by which such actions must be completed. If the applicant does not complete the necessary activities stipulated by the city in the notice by the date(s) set forth in the notice, the city council, after

notice and a public hearing, may order that such activities be completed by the city or its designated contractor and that all costs associated with such activities be charged to the applicant and may be drawn from the financial security. If the financial security is insufficient, the amount incurred by the city that is outstanding may be assessed by the city council by levying the amount upon the properties benefiting from and utilizing the stormwater facilities that were maintained, repaired or replaced by the city. This amount may be certified by the city to the county auditor of Rice County, Minnesota, and shall be collected in the same manner as the collection of real estate taxes.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-234. Financial security.

The city may require that the applicant post a financial security in the form of a surety bond in a form approved by the city attorney or his or her designee, when in the judgment of the city engineer or his or her designee that there is potential for environmental damage from the land disturbance activities. The applicant may file a cash bond or instrument of credit instead of a surety bond so long as it has been approved by the city attorney or his or her designee and is for an amount equal to that which would have been required for the surety bond. The amount of the bond shall be for an amount that will assure that the work can be completed by the city if it is not completed by the applicant in accordance with the approved plans and specifications and the SWPPP.

If the applicant simultaneously exposes more soil to erosion than originally stated in the SWPPP, the city may increase the amount of the financial security required.

If at any time during the course of the work, the financial security amount falls below fifty (50) percent of the required amount, the applicant shall post an additional financial security in the amount necessary to restore the financial security to the required amount within fourteen (14) days. If the applicant fails to post an additional financial security, the city may take any of the following actions:

- (1) Withhold the scheduling of inspections and/or the issuance of a certificate of occupancy; or
- (2) Revoke any permit issued by the city to the applicant for the site.

After completion of the work, the city shall be authorized to retain any unused amount of the financial security for a period of one year of the completion date of the work in order to ensure that the final stabilization measures are established.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-235. Enforcement of article.

In the event that the applicant's work on the site does not conform to the approved SWPPP or the most current version of the NPDES General Stormwater Permit for Construction Activity, the SWPPP is not being implemented or the applicant is in violation of any of the requirements of this article, the city engineer or his or her designee shall issue a written notice of noncompliance to the applicant detailing the corrective actions necessary for compliance. The applicant shall conduct the corrective actions within the time period determined by the city and stated in the notice. If an imminent hazard exists, the city may require that corrective work begin immediately.

- (1) *Stop work order.* If corrective actions identified in the notice of noncompliance are not completed by the time period set forth by the city in the notice, the city engineer or his or her designee may issue an order to the applicant to stop all work on the site immediately until an erosion and sedimentation control inspection is performed on the site by the city engineer, public works director, or their designee

and it is determined that the applicant may continue with the work. The applicant shall be responsible for scheduling the inspection.

- (2) *Action against the financial securities.* If the corrective actions identified in the notice of noncompliance are not completed within the time specified in the notice, the city may also act against the financial security if any of the conditions listed below exist. The city shall use funds from this security to finance any corrective or remedial work undertaken by the city or a contractor under contract to the city and to reimburse the city for all direct cost incurred in the process of remedial work including, but not limited to, staff time and reasonable attorneys' fees.
 - (a) The applicant ceases land disturbance activities and abandons the work site prior to completion of the SWPPP;
 - (b) The applicant fails to conform to the SWPPP or to supplementary instructions issued by the city;
 - (c) The techniques utilized by the applicant pursuant to the SWPPP fail within one year of installation; or
 - (d) Emergency action is required pursuant to subsection (6).
- (3) *Remedial action.* If corrective actions identified in the notice of noncompliance are not completed by the time period set forth by the city in the notice, the city shall also be entitled to take such remedial action as the director of public works or city engineer deems necessary to ensure compliance. In the event that the city takes remedial action, the applicant shall be responsible for all direct costs incurred by the city in the process of remedial work, including, but not limited to, staff time and attorneys' fees. In the event that the applicant does not reimburse the city for these expenses, they may be specially assessed against the property by the city and collected with the property taxes.
- (4) *Permit suspension and revocation.* If the corrective actions identified in the notice of noncompliance are not completed within the time specified in the notice, the city may suspend or revoke the applicant's grading permit.
- (5) *Misdemeanor.* Any person convicted of violating this Code shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment as specified by state statute. Such penalty may be imposed in addition to an action against the financial securities, issuance of stop work order, taking of remedial action, or suspension or revocation of the grading permit.
- (6) *Emergency action.* If circumstances exist such that noncompliance with this article poses an immediate danger to the public health, safety and welfare, as determined by the city engineer or the director of public works, the city may take emergency preventative action. Prior to taking emergency preventative action, the city shall attempt every reasonable measure possible to contact and direct the applicant to take the necessary action.

(Ord. No. 2009-13, § 2, 10-13-09)

Sec. 28-236. Right of entry and inspection.

The applicant shall promptly allow the city and its authorized representatives, upon presentation of credentials to enter upon the site for the purposes of:

- (1) Obtaining information, examination of records, conducting investigations, inspections or surveys related to the SWPPP;
- (2) Bringing such equipment upon the site as is necessary to conduct such surveys and investigations;
- (3) Examining and copying any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the grading permit;

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- (4) Inspecting the stormwater pollution control measures; and
 - (5) Sampling and monitoring any items or activities pertaining to stormwater pollution control measures.

Any temporary or permanent obstruction to the safe and easy access by the city for the above purposes shall be promptly removed by the applicant upon the city's request. The cost of providing access to the site by the city shall be the responsibility of the applicant.

(Ord. No. 2009-13, § 2, 10-13-09)

ARTICLE VIII. ILLICIT DISCHARGE AND ILLICIT CONNECTIONS TO THE STORM DRAIN SYSTEM

Sec. 28-237. Purpose.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of non-stormwater discharges to the storm drain system to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the storm drain system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this article are:

- (1) To regulate the contribution of pollutants to the storm drain system by stormwater discharges by any user;
- (2) To prohibit illicit connections and discharges to the storm drain system; and
- (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this article.

(Ord. No. 2009-13, § 3, 10-13-09)

Sec. 28-238. Definitions.

For the purposes of this article, the following words, terms and phrases shall have the following meanings respectively ascribed to them in this section:

Best management practices or *BMPs* means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Construction activity means an activity subject to the NPDES General Stormwater Permit for Construction Activity. This includes construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Hazardous material means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal discharge means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in this article.

Illicit connection means either:

- (1) Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the city; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by the city.

Industrial activity means an activity subject to NPDES General Stormwater Permit for Industrial Activity as defined in Title 40 of the Code of Federal Regulations, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit means a permit issued by the Minnesota Pollution Control Agency that authorizes the discharge of pollutants to waters of the state, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

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

Pollutant means any substance that, when discharged, has the potential to or does interfere with state-designated water uses; obstructs or causes damage to waters of the state; changes water color, odor, or usability as a drinking water source through causes not attributable to natural stream processes affecting surface water or subsurface processes affecting groundwater; adds an unnatural surface film to the water; adversely changes other chemical, biological, thermal, or physical conditions in any surface water or stream channel; degrades the quality of groundwater; or harms human life, aquatic life, terrestrial plant or wildlife. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and any other noxious or offensive matter.

Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm drain system means publicly-owned facilities by which stormwater is collected or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any from of natural precipitation, and resulting from such precipitation.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a premises.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof or as otherwise defined by M.S. § 115.01, subdivision 22.

(Ord. No. 2009-13, § 3, 10-13-09)

Sec. 28-239. Applicability.

This article shall apply to all water entering the storm drain system generated on any developed or undeveloped lands unless explicitly exempted by the city. The city shall administer, implement, and enforce the provisions of this article.

(Ord. No. 2009-13, § 3, 10-13-09)

Sec. 28-240. Compatibility with other regulations.

This article is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(Ord. No. 2009-13, § 3, 10-13-09)

Sec. 28-241. Discharge prohibitions.

- (a) No person shall throw, drain, or otherwise discharge, cause, or allow anyone under his or her control to throw, drain or otherwise discharge any illegal discharge to enter the storm drain system or any surface water unless such discharge:
 - (1) Is one of the following exempt discharges: water line flushing, landscape irrigation, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drain tile, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, flows from riparian habitats and wetlands or dechlorinated swimming pool discharges;
 - (2) Discharges or flow from firefighting activities and other discharges authorized by the city as being necessary to protect public health and safety;
 - (3) Discharges associated with dye testing; ~~however~~however, this activity requires a verbal notification to the public works department prior to the time of the test;
 - (4) Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.
- (b) No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the state, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Waste deposited in streets in proper receptacles for the purposes of collection are exempted from this prohibition.

(Ord. No. 2009-13, § 3, 10-13-09)

Sec. 28-242. Illicit connection prohibition.

- (a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (c) A person is also considered to be in violation of this article if he or she connects a line conveying sewage to the storm drain system or allows such a connection to continue. This type of connection must be terminated by an approved method or redirected, as necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval by the city.
- (d) If a drain or conveyance on a property has not been documented in any plans or maps or equivalent documentation filed with the city, which may be connected to the storm drain system, the city may require the owner or occupant of the property to locate the drain or conveyance to make certain that it is not an illicit connection to the storm drain system. The city shall provide the owner or occupant with a written notice requiring that the locating be completed within a reasonable time period. The owner or occupant shall perform the locating and shall provide the city with documentation that the drain or conveyance is not an illicit connection.

(Ord. No. 2009-13, § 3, 10-13-09; Ord. No. 2016-13, § 1, 9-27-16)

Sec. 28-243. Watercourse protection.

Every person owning or occupying premises through which a watercourse passes, shall keep and maintain that part of the watercourse within the premises free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or occupant shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. No. 2009-13, § 3, 10-13-09)

Sec. 28-244. Industrial or construction activity discharges.

Any person performing any construction or industrial activity subject to an NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the public works department prior to the allowing of discharge to the storm drain system.

(Ord. No. 2009-13, § 3, 10-13-09)

Sec. 28-245. Inspection and right of entry.

- (a) **Access.** The public works director or his or her designee shall be permitted to enter and inspect premises subject to regulation under this article as often as may be necessary to determine compliance with this article. The discharger shall allow the public works director or his or her designee ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater and the performance of any additional duties as defined by state and federal law. Any temporary or permanent obstruction to safe and easy access

to the area to be inspected or sampled shall be promptly removed by the discharger at the request of the public work director or his or her designee and shall not be replaced.

- (b) *Inspection alternatives.* If the discharger does not wish to allow the public works director or his or her designee to enter the premises to conduct the required activity, he or she may retain a private inspector to conduct the activity. The private inspector must have credentials that are acceptable to the public works director or his or her designee. The private inspector must provide the public works director or his or her designee with all relevant samples, test results, reports or any other information requested by him or her.
- (c) *Installation of monitoring equipment and other devices.* The public works director or his or designee may require the discharger to install monitoring equipment or other such devices as are necessary in his or her opinion to conduct monitoring or sampling of the premises' stormwater discharge. The monitoring equipment must be maintained by the discharger in a safe and proper operating condition at all times. All devices used to measure stormwater flow and quality must be calibrated in order to ensure their accuracy.
- (d) *Administrative search warrant.* If the public works director or his or her designee has been refused access to any part of the premises from which stormwater is being discharged, and he or she is able to demonstrate probable cause to believe there may be a violation of this article, or that there is a need to inspect, test, examine or sample as part of a routine program designed to verify compliance with this section or any order issued hereunder, or to protect the overall public health, safety and welfare, then the city may seek issuance of an administrative search warrant from any court of competent jurisdiction.

(Ord. No. 2009-13, § 3, 10-13-09)

Sec. 28-246. Requirement to prevent, control and reduce stormwater pollutants by the use of best management practices.

Best management practices are required for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the state. The owner or operator of such activity, operation, or facility shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drain system or waters of the state through the use of structural and non-structural BMPs. The owner or operator of a premises that may be the source of an illegal discharge may be required by the city to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the storm drain system. These BMPs shall be part of the Stormwater Pollution Prevention Plan (SWPPP) if necessary for compliance with requirements of an NPDES permit. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(Ord. No. 2009-13, § 3, 10-13-09)

Sec. 28-247. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the city within twenty-four (24) hours of the discharge. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the

owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its reoccurrence. Such records must be retained for at least five (5) years past the end of the NPDES industrial permit cycle. Failure to provide notification of a release as provided in this section is a violation of this article.

(Ord. No. 2009-13, § 3, 10-13-09)

Sec. 28-248. Enforcement.

- (a) *Notice of violation.* Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this article, the city may order compliance by sending written notice of the violation to the responsible person. Such notice must include the following information:
- (1) The name and address of the alleged violator;
 - (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - (3) A statement specifying the nature of the violation;
 - (4) A description of the remedial measures necessary to restore compliance with this article and a time schedule for the completion of such remedial action; and
 - (5) A statement of the actions that will be taken by the city if there is no compliance with the order.
- (b) *Remedial measures.* The city may order that any of the following remedial measures be taken:
- (1) The performance of monitoring, analysis, and reporting;
 - (2) The elimination of illicit connections or illegal discharges;
 - (3) That violating discharges, practices, or operations must cease and desist;
 - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected premises;
 - (5) The implementation of source control or treatment BMPs; and
 - (6) Suspension of storm drain access. Any person discharging to the storm drain system in violation of this article may have his or her premises' storm drain system access terminated by the city if such termination will abate or reduce the illegal discharge. No person shall reinstate storm drain access to premises terminated pursuant to this article without the prior approval of the city.
- (c) *Emergency cease and desist orders.* When the city finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, or that the person's past violation is likely to reoccur, and that the violation has caused or has contributed to an actual or threatened discharge to the storm drain system or waters of the state which reasonably appears to present an imminent or substantial endangerment to the public health, safety or welfare or to the environment, the city may issue an emergency cease and desist order in lieu of a notice of violation to the violator directing him or her to:
- (1) Immediately comply and stop or eliminate the endangering discharge;
 - (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including, but not limited to, immediately halting operations or terminating the discharge; and
 - (3) Immediately comply with all requirements of this article and other applicable laws and regulations.

In the event of a person's failure to immediately comply with the emergency cease and desist order, the city may take such steps as deemed necessary to prevent or minimize harm to the storm drain system or waters of the state, or endangerment to persons or to the environment, including immediately terminating the facility's water supply, sewer connection, or other municipal utility services. The city may allow the person to recommence the discharge activities when he or she has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless further termination proceedings are initiated against the person under this article. A person that is found by the city to be responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence to the Minnesota Pollution Control Agency within thirty (30) days of receipt of the emergency cease and desist order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, the city taking any other action against the violator.

- (d) *Appeal.* The offending party may appeal the city's order to the city council. An appeal must be brought in writing no later than ten (10) days from the date of the notice.
- (e) *Abatement.* If abatement of a violation or restoration of affected premises is required, the order must set forth a deadline within which such remediation or restoration must be completed. Said notice must further advise that, should the offending party fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof may be charged to the violator.
- (f) *Payment.* In the event that abatement or restoration work is performed by the city, the city may charge the offending party for its costs and expenses associated with the work. If the bill received for abatement or restoration is not paid within thirty (30) days, the city may draw the amount of the bill from any financial guarantees that the city may be holding or may certify the amount to the county for collection with the property taxes.
- (g) *Public nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.
- (h) *Penalty.* Any person who violates any provision of this article shall be guilty of a misdemeanor and shall be subject to a maximum fine or maximum period of imprisonment or both, as specified by M.S. § 609.03. Each additional day that the premises remains in violation of this article shall constitute a separate violation of this article and may be prosecuted accordingly. Nothing contained herein shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation of this article, including, but not limited to, seeking a civil injunction or a restraining order.

(Ord. No. 2009-13, § 3, 10-13-09)

Sec. 28-249. Reserved.

ARTICLE IX. RESERVED⁷

⁷Editor's note(s)—Ord. No. 2020-12, § 1, adopted Aug. 12, 2020, repealed art. IX, §§ 28-250—28-260, which pertained to subsurface sewage treatment systems and derived from Ord. No. 2014-003, adopted April 8, 2014.

Secs. 28-250—28-260. Reserved.



Council Work Session Memorandum

TO: Mayor and City Council
THROUGH: Tim Murray, City Administrator
FROM: Kevin Bushard, Human Resources Manager
MEETING DATE: October 18, 2022
SUBJECT: Review Proposed Job Description Revisions

Discussion:

In conjunction with a resignation, a pending retirement, and 2023 personnel budget requests, Staff has reviewed all of the relevant positions and job descriptions, and is recommending several revisions as well as the creation of some new positions/job descriptions.

Administration is recommending an organizational change that affects the Community & Economic Development (CED) and Fire Departments--specifically, the Building Codes Division would be placed within the Fire Department and report to the Fire Chief. This organization structure was in place from approximately 1990 to 2013, and worked effectively during that timeframe. The two department head job descriptions have been revised accordingly, and are attached for review and discussion. With this change, Staff does not anticipate that the CED Director position classification and scoring would change significantly, however, the Fire Chief position (proposed to be re-titled as the Director of Fire and Code Services (Fire Chief) may be affected with the addition of the responsibilities. As such, that position will be submitted to our consultant for evaluation of classification and scoring. The proposed reorganization has been discussed with both of the current department heads as well as the building codes staff.

With the pending retirement of the Administrative Assistant II in Public Works and Engineering, that position has also been evaluated. Staff is recommending the adoption of a new position and job description, titled Administrative Coordinator. This position includes additional duties and responsibilities when compared with the Administrative Assistant II position, including more confidential and permit application work. This update will also require consultant review for reclassification and scoring.

Within the 2023 personnel budget requests for Administration, there were proposed changes of positions from Human Resources (HR) Manager and

Payroll & Benefits Specialist to HR Director and HR Assistant, respectively. The job descriptions for the HR Director and HR Assistant have been drafted for review and comment by the City Council. The proposed HR Director position has been updated with additional duties and responsibilities, including the addition of supervising payroll and the IT Division. The HR Assistant position has been updated to include additional responsibilities that are already being done by the current employee.

Attachments:

1. Community Economic Development Director Job Description - 2022 DRAFT
2. Director of Fire and Code Services (Fire Chief) Job Description - 2022 DRAFT
3. Administrative Coordinator Job Description - 2022 DRAFT
4. Human Resources Director Job Description - 2022 DRAFT
5. Human Resources Assistant Job Description - 2022 DRAFT

CITY OF FARIBAULT POSITION DESCRIPTION

Position Title: Community & Economic Development Director
Department: Community & Economic Development
Reports To: City Administrator
FLSA Status: Exempt
Date: October 25, 2022

PRIMARY OBJECTIVE OF POSITION

Under broad direction, the Community & Economic Development Director is responsible for managerial, administrative, and supervisory work in the areas of community and economic development. Performs highly skilled, professional, management, coordinative, and technical tasks.

ESSENTIAL FUNCTIONS OF THE POSITION

Manage and supervise employees to provide community and economic development operations to achieve goals and objectives utilizing available resources.

- Direct/oversee goals, objectives, strategies and schedules for all Community and Economic Development functions and, through administrative and supervisory personnel, supervise all activities of Community & Economic Development divisions, to include Planning & Zoning, Economic Development, and Housing.
- Act as a spokesperson for Faribault, representing the City in the best possible light, to position City as a desirable place to live, work and locate a business. Proactively encourage economic development by maintaining communications with existing and potential businesses; implement strategic initiatives to attract new business developments.
 - Research design, and implement programs to encourage location of new businesses and expansion of existing businesses within the City.
 - Coordinate resources of public and private sectors - e.g. Federal and State grants, various development bonds, SBA loans, tax increment and tax abatement financing, banks, mortgage companies, etc.
- Hire and retain qualified employees to staff the department.
- Provide appropriate resources for training of employees.
- Supervise departmental employees.
- Assign duties and examine work for exactness, neatness, and conformance to policies and procedures.
- Evaluate performance of employees.

- Serve as Executive Director of the Faribault Economic Development Authority (EDA).
- Serve as Executive Director of the Faribault Housing and Redevelopment Authority (HRA).

Develop and implement departmental operating policies to ensure coordination of activities and meet stated objectives of the Community & Economic Development Department.

- Meet and confer with the City Administrator and other City department heads.
- Direct all departmental functions through administrative, supervisory and professional personnel.
- Gather, interpret and prepare data for studies, reports and staff recommendations.
- Supervise all activities of the Department.
- Conduct regular staff meetings for the purpose of instruction and coordination of various projects.
- Prepare and write grant applications and administer grant programs.

Attend decision-making meetings and contribute professional recommendations and advice to the City Administrator, City Council, EDA, HRA, Planning Commission, Heritage Preservation Commission (HPC), and other various boards, commissions, and committees.

- Prepare reports and special materials.
- Provide professional expertise to the City Council and various boards, commissions, and committees.
- Attend City Council meetings and present information to assist the City Council in consideration of requests for action and making of informed decisions.
- Attend board, commission and committee meetings and oversee and prepare agendas, materials and reports for EDA, HRA, Planning Commission, and HPC meetings, and other boards, commissions, and committees as needed.

Develop and administer departmental budgets to maintain fiscal control.

- Prepare annual budgets with the assistance of the supervisory staff.
- Supervise and administer funds for all operational activities and development projects.
- Approve all requests for disbursement of Community Development, EDA and HRA funds.

Develop and communicate official plans, programs, policies and procedures to staff and the general public.

- Answer citizen questions and requests for materials and information.

- Follow up on inquiries for development.
- Maintain good public relations with the City Council, other governmental agencies, industries, businesses, and with the general public.
- Attend meetings of civic organizations, schools, and other public functions to promote the programs and activities of the City, the EDA, the HRA, and the Department.
- Maintain a work schedule permitting easy access for the public.

Other job related functions.

- Keep the City Administrator informed of Department activities.
- Perform special duties as assigned by the City Administrator.

MINIMUM QUALIFICATIONS

Education and Experience:

- B.A./B.S. in Urban Studies, Planning, Public Administration, Business Administration or related field.
- Minimum of seven (7) years of experience, in the public and/or private sector, in community development, economic development, business, or a related field, preferably within the state of Minnesota.
- A demonstrated record of ongoing continuing education in community and economic development.
- Any equivalent combination of education and experience.
- Possession of a Minnesota driver's license or ability to obtain one prior to employment.

DESIREABLE QUALIFICATIONS

Necessary Knowledge, Skills, and Abilities:

- Master's Degree in Urban Studies, Planning, Public Administration, Business Administration or related field.
- Considerable knowledge of state and federal grant and housing programs and other urban development programs.
- Considerable knowledge of tax abatement and tax increment financing regulations and applications.
- Knowledge of planning and zoning codes/ordinances.
- Geographic information system (GIS) applications.
- Ability to communicate effectively orally and in writing with general public, developers, owners, supervisors, employees, City officials, appointed boards, and the business community.
- Ability to prepare and analyze comprehensive and technical reports and data.

SUPERVISION RECEIVED/EXERCISED

This position receives general supervision from the City Administrator. Supervise the City Planner, Economic Development Coordinator, Housing Coordinator, Administrative Assistant II, and other personnel as assigned.

TOOLS AND EQUIPMENT USED

Desktop and laptop computers, including word processing, spreadsheets, presentation software, as well as program applications.

Motor vehicle, calculator, telephone, copy machine and fax machine.

KNOWLEDGE, SKILLS AND ABILITIES

- State, federal, and municipal policies, laws and codes affecting department operations.
- General economic development concepts, practices, processes; specific federal, state, local and private sector economic development programs and initiatives.
- Micro/macroeconomics, economic data sources, economic trends and the structure of the economy sufficient to monitor and analyze how state and national trends effect local communities.
- Accounting principles, Tax Increment Financing, Tax Abatement, Community Development Block Grants, and other financial mechanisms sufficient to assist with development of financial proposals to support economic development activities.
- Group dynamics, meeting facilitation and educational techniques sufficient to plan and lead meetings, presentations, conferences, and events.
- Effectively communicate ideas, explanations, and recommendations both orally and in writing
- Establish and maintain effective working relationships with a broad variety of individuals and groups.
- Deliver presentations/speeches to various civic organizations and clubs, professional organizations, community groups, elected officials, real estate and development associations, and other groups as requested.
- Be a leader among City staff working closely with the City Administrator and City Attorney on economic development and community development issues.
- Listen to new ideas and adjust to the concerns of Council, property/business owners, and developers.
- Draft development agreements, upon appropriate consultation with the City Council, City Administrator, and Department Directors.
- Manage multiple tasks within well-defined time constraints.
- Demonstrated organizational skills.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this position. Reasonable accommodations may be made to enable an individual with disabilities to perform the essential functions.

- While performing the duties of this job, the employee is frequently required to sit; talk; hear; read; use hands to finger, handle, feel, or operate tools or controls; and reach with hands and arms. Hand-eye coordination is necessary to operator computers and various pieces of office equipment.
- The employee is required to walk, traverse stairs, and move about various types of environmental and geographic settings. Must be able to drive a car for local as well as long distance travel.
- Lifting, pushing/pulling, or carrying objects up to ten (10) pounds is sometimes required.
- Repetitive movements of the hands are frequently required. Audio, visual, and verbal functions are essential funds to performing this position, including the ability to regularly communicate and make presentations to the public.

WORK ENVIRONMENT

The majority of work is performed within an office setting; however some outdoor work is required at various land use developments and construction sites. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The noise level in the environment is usually quiet in the office, and moderate in the field.

OTHER

The City of Faribault does not discriminate on the basis of race, color, natural origin, sex, religion, age, and handicap status in the employment or the provision of services.

This document does not constitute an employment agreement, implied or otherwise, other than "at will" employment relationship. The City Council retains the discretion to add duties or change the duties of this position at any time.

CITY OF FARIBAULT POSITION DESCRIPTION

Position Title: Director of Fire and Code Services (Fire Chief)
Department: Fire Department
Reports To: City Administrator
FLSA Status: Exempt
Date: October 25, 2022

PRIMARY OBJECTIVE OF POSITION

The Fire Chief supervises the operations, planning and policy development for the Fire Department, safety and emergency management and Building Code Division. Supervise the Fire Department and Building Codes Division to include prevention, response, training and budgeting; code enforcement; fire/property, rental and building inspections. Coordinate and implement the operational policies for the department, along with the development of community disaster planning.

ESSENTIAL FUNCTIONS OF THE POSITION

Manages and supervise employees to provide Fire Department operations and Building Code Division services to achieve goals and objectives using available resources.

- Hire and retain qualified employees to staff the department and division.
- Provide appropriate training for employees.
- Supervision of employees.
- Assign duties and examine work for exactness, neatness, and conformance to policies and procedures.
- Evaluate performance of employees.

Develop and implement policies to ensure coordination of activities and meet stated objectives of the Fire Department and Building Code Division.

- Meet and confer with the City Administrator and other City department heads.
- Direct all departmental functions through administrative, supervisory and professional personnel.
- Gathers, interprets and prepares data for studies, reports and recommendations.
- Supervise all activities of the Fire Department and Building Code Division.
- Conduct regular staff meetings for the purpose of instruction and coordination of various projects.
- Directly responsible for the maintenance of all fire code inspection programs to ensure that facilities and structures are conforming to

municipal codes and applicable state regulations in a manner that will minimize fires and prevent deaths or injuries.

- Reviews all plans for new commercial and industrial structures to ensure that they conform to fire safety code and practices.
- Directs the investigation of all fire in the City and service area in coordination with law enforcement agencies to determine the cause and origin and prepares comprehensive reports on fire incidents as required by the State or City Administrator.

Develop and implement safety programs and training for the City.

- Manage the City of Faribault Safety Program for all departments and coordinate safety training and related recordkeeping. (Includes Fleet Safety Program and OSHA).
- Coordinate the Emergency Management Multi-Hazard Plan to include the efforts of government, response, industry and private sector.
- Prepare and administer emergency preparedness operations, coordinate all City emergency preparedness efforts.
- Coordinate and participate in fire prevention education programs in schools, commercial and industrial buildings and residential units within the City.
- Develop a quarterly report summarizing activities relative to investigation, fires and prevention efforts.

Attend decision-making meetings and contribute professional recommendations and advice to the City Administrator, City Council, and various boards, commissions, and committees.

- Prepare reports and special materials.
- Provide professional expertise to the City Council and various boards, commissions, and committees for necessary amendments to ordinance and codes to meet the needs of the community.
- Attend City Council meetings and present information to assist the City Council in consideration of requests for action and making of informed decisions.
- Attend board, commission and committee meetings and prepare materials and reports as needed.

Develop and administer departmental budgets to maintain fiscal control.

- Prepare annual budgets with the assistance of the supervisory staff.
- Supervise and administer funds for all operational activities and special projects.
- Approve all requests for disbursement of Fire Department and emergency management funds.

Communicates official plans, programs, policies and procedures to staff and the general public.

- Answer citizen questions and requests for materials and information.
- Responsible to coordinate the City of Faribault Continuity of Operations Plan (COOP).
- Act as liaison between the public safety departments and the community to include educational and training programs concerning fire and emergency management issues.
- Attend meetings of civic organizations, schools, and other public functions to promote the programs and activities of the emergency management.
- Maintain a work schedule permitting easy access for the public.
- Address complaints from citizens, developers, contractors and other members of the public regarding any operations supervised or projects managed.

Perform other job related functions.

- Perform special duties as assigned by the City Administrator.

MINIMUM QUALIFICATIONS

Education and Experience:

- Graduation from an accredited four-year college or university with a degree in public administration, business administration, fire service or a closely related field; and
- Seven (7) years' experience in a fire service with three (3) years in a supervisory position; or
- Any equivalent combination of education and experience.
- Certified firefighter or ability to obtain certification within 6 months of hire date.
- Possession of a Minnesota driver's license or ability to obtain one prior to employment.

Necessary Knowledge, Skills, and Abilities:

- Knowledge of industrial safety standards.
- Knowledge of emergency management services.
- Considerable knowledge of relevant fire codes, City ordinances and state laws as well as any rules and regulations in the area of fire prevention or investigation.
- Ability to do complex fire prevention and investigation work.
- Background in Emergency Management
- Completed the National Fire Academy's "Executive Fire Officer" (EFO) program, or the Center for Public Safety Excellence's "Chief Fire Officer" (CFO) program.

SUPERVISION RECEIVED/EXERCISED

This position receives general supervision from the City Administrator. Supervise the Fire Captains, Full-time and Part-time Firefighters, Fire & Property Maintenance Inspector, Administrative Assistant II and Building Official.

TOOLS AND EQUIPMENT USED

Desktop and laptop computers, including word processing, spreadsheets, presentation software, as well as program applications.

Motor vehicle, calculator, telephone, copy machine and fax machine.

Emergency medical/rescue response unit, fire apparatus, fire pumps, hoses and other standard firefighting equipment including ladders, first aid equipment, radios and pagers.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this position. Reasonable accommodations may be made to enable an individual with disabilities to perform the essential functions.

- While performing the duties of this job, the employee is frequently required to sit, stand, walk, talk, hear, read, taste, smell; use hands to finger, handle, feel, or operate tools or controls; and reach with hands and arms. Hand-eye coordination is necessary to operate computers and various pieces of equipment.
- The employee is required to walk, traverse stairs, and move about various types of environmental and geographic settings. Must be able to drive a car for local as well as long distance travel.
- Lifting, pushing/pulling, or carrying objects up to 25 pounds and occasionally lift and/or move up to 100 pounds.
- Repetitive movements of the hands are frequently required. Audio, visual, and verbal functions are essential funds to performing this position, including the ability to regularly communicate and make presentations to the public.

WORK ENVIRONMENT

The majority of work is performed within an office setting; however some outdoor work is required at fire and emergency scenes. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee sometimes works in outside various weather conditions. The employee occasionally works in

precarious places; and with explosives and is occasionally exposed to wet and/or humid conditions, fumes or airborne particles, toxic or caustic chemicals, extreme cold, extreme heat, and vibration.

The noise level in the environment is usually quiet in the office, and moderate to noisy in the field.

OTHER

The City of Faribault does not discriminate on the basis of race, color, natural origin, sex, religion, age, and handicap status in the employment or the provision of services.

This document does not constitute an employment agreement, implied or otherwise, other than "at will" employment relationship. The City Council retains the discretion to add duties or change the duties of this position at any time.

DRAFT

CITY OF FARIBAULT POSITION DESCRIPTION

Position Title: Administrative Coordinator
Departments: Public Works and Engineering
Reports To: Public Works and Engineering Directors
FLSA Status:
Date: October 25, 2022

PRIMARY OBJECTIVES OF THE POSITION

Perform responsible technical and administrative work serving as the primary service counter contact. Assist the public in answering specific and general inquiries regarding codes, procedures and policies. Process permit applications, issue and receipt permits. Provide clerical and counter support to Public Works and Engineering Departments. Responsibility for the performance of moderately complex clerical duties which require judgment based on knowledge gained through experience. Serve the public and other City employees and officials by responding to various inquiries.

ESSENTIAL FUNCTIONS OF THE POSITION

The essential functions of the position include, but is not limited to the following:

- Provide public service activities including, but not limited to, greeting counter walk-ins, answering telephones, responding to requests for information, provide appropriate assistance by directing to the appropriate individual or department.
- Receive, log and review permit applications and supporting documents to verify completeness and accuracy of information; assess scope of project and relevant permit requirements; educate customers regarding necessary permits and general code compliance of proposed projects.
- Process, issue and receipt faxed, mailed and over-the-counter permit applications. Issue and receipt all other permits prepared that are ready for issuance.
- Review, approve and issue city right of way registration and insurance certification.
- Research records and provide public with specialized site-specific property information such as approved permits, construction plans, zoning and surveys or site plans.
- Prepare general correspondence, reports, lists and records.
- Perform a variety of detailed clerical tasks such as compiling, calculating and preparing special reports, maintains records.

- Responsible for maintenance of permit software database, including contractors, permit payment information and updating of parcel information.
- Develop, create and implement department application forms and handouts.
- Organize, file and maintain department files. Scan and store department records into data retention computer system.
- Send form letters for work with no permit as determined by Director.
- Answer general inquiries in a pleasant and friendly manner from contractors, vendors, and public both over the phone and for general walk-in traffic.
- Prepare monthly, quarterly and annual reports for various City, State, Federal and other agencies as required.
- Prepares agendas and supporting materials for department and city; take and transcribe minutes; prepares and distributes minutes and reports; prepares agenda reports.
- Assists with the preparation, coordination and administration of a wide variety of confidential information, department projects and independent contracts including but not limited to: seasonal bid contracts, hydrant flushing, water meter issues, engineering contract letters and documents
- Perform special projects as assigned by the Director.
- Perform other duties and assumes other responsibilities as are apparent or delegated.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

QUALIFICATIONS

Minimum Qualifications:

Education

High school diploma or GED Certificate plus license/certification/training at vocational school, related on-the-job experience or an associate's degree in a related field.

Experience

Two (2) years of government clerical experience with extensive public contact.

Desired Qualifications:

Experience

- Two to four (2-4) years of experience as an office manager, executive assistant, or permit technician in a Public Works, Engineering or a construction administration organization.

KNOWLEDGE, SKILLS AND ABILITIES

- Considerable knowledge of English, spelling, punctuation, arithmetic and vocabulary.
- Ability to perform the full range of office and administrative support duties and tasks.
- Understand and explain City policies, procedures and fees to the general public, permit applicants and city staff.
- Ability to read and interpret blueprints, maps, specifications and other construction related documents.
- Ability to learn, interpret, explain and apply local, state and federal regulations and standards related to infrastructure construction.
- Proficient in the operation of office equipment including computer software such as word processing, database and spreadsheet applications. Prefer experience with database programs.
- Ability to work independently and use good judgment without requiring immediate supervision.
- Ability to deal with the contractors and the public in a tactful and courteous manner.
- Knowledge of modern office equipment, and clerical practices and procedures.
- Ability to handle multiple priorities in a fast-paced work environment.
- Ability to work with many distractions such as interruptions from phones and walk-ins.
- Ability to type or enter data at a speed necessary for successful job performance.
- Ability to update brochures and information for the website.

Special Equipment

Multi-line phone systems, including computer aided systems; personal computer including word processing, spreadsheet, agenda management (CivicClerk), document management (Laserfiche), accounting systems (Springbrook), website/social media platforms, online bidding and permit software.

COMPLEXITY

Work requires many different processes and methods applied to an established professional or technical field.

RESPONSIBILITY

Supervision Needed: This position either (a) carries out work with minimal supervision (i.e., the supervisor sets only goals, priorities, and the deadlines; and the employee uses guidelines that cover most situations), or (b) follows the supervisor's directions on methods and desired results but modifies methods to resolve unforeseen situations and problems.

Supervision Given: Moderate coordination of work with other individuals (Non-Supervisory).

Impact: Work affects the overall efficiency and image of the City.

REQUIRED PHYSICAL ABILITIES AND WORK CONDITIONS

The physical demands and work conditions described here are representative of those that must be met by an individual to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Nonstrenuous - occasionally climbs a few steps, balance, bend/stoop, kneel, crouch, squat, crawl, reach above shoulder level, sit, stand, walk, finger/enter data/keystroke, feel, talk, or hear, and/or exerts up to 10 pounds of force occasionally and/or negligible amount of force frequently or constantly to lift, carry, push, pull or otherwise move objects.

Surroundings: Low Risk - Exposure to inside environmental conditions where it is adequately lighted, ventilated and heated, and normal precautions must be observed.

TOOLS AND EQUIPMENT USED:

Tools and equipment used in a public works environment including, but not limited to: computers, Microsoft Office, Laserfiche, Granicus software systems, typewriters, faxes, copiers, phones, and calculators.

NOTE: This job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

The City of Faribault is an Equal Opportunity Employer. In compliance with the Americans with Disabilities Act, the City will provide reasonable accommodations to qualified individuals with disabilities and encourages both prospective and current employees to discuss potential accommodations with the employer.

CITY OF FARIBAULT POSITION DESCRIPTION

Position Title: Human Resources Director
Department: Administration
Reports to: City Administrator
FLSA Status: Exempt
Date: October 25, 2022

PRIMARY OBJECTIVE OF POSITION

This position performs a wide variety of public-sector human resources, payroll, and IT related duties of considerable difficulty and complexity, and performs other duties as assigned.

SUPERVISION RECEIVED

Works under the supervision of the City Administrator.

SUPERVISION EXERCISED

Supervision of Human Resources Assistant, IT Coordinator, and other personnel as assigned.

ESSENTIAL DUTIES AND RESPONSIBILITIES

- Manages and supervises human resources and IT operations to achieve goals within available resources.
- Plans and organizes workloads and staff assignments; trains, motivates and evaluates staff; reviews progress and directs changes as needed.
- Provides leadership and direction in the development of staff; plans, gathers, interprets, and prepares data for studies, reports and recommendations; coordinates department activities with other departments as needed.
- Provides professional advice to administration, directors and supervisors in relation to personnel, employee and labor relations.
- Maintains positive public relations; speaks and advises City Council, city administration, leadership team, supervisors, and employees.
- Develop and administer departmental budgets.
- Creates and communicates various policies, reports, legal notices and other documents as required.
- Maintains Human Resources calendar for timely completion of required reports, surveys, etc. (e.g. pay equity). Maintain and administer City human resources systems i.e. records system, personnel policies, and job descriptions. Administers compliance with Fair Labor Standards Act. Records process and documentation for Family Medical Leave Act (FMLA) compliance.

- Plans, oversees and maintains the centralized personnel recordkeeping system and ensures compliance with Minnesota Data Practices Act and record retention requirements.
- Administers the Federal DOT Drug and Alcohol Testing Program and the City's testing policy for commercial drivers, implement policy to affected departments, verifies the maintenance of records as required by regulation.
- Handles highly confidential materials and information at all times.
- Coordinates the recruitment process for all full-time, part-time, and temporary seasonal employees; prepares and places ads, conducts interviews, schedules testing or examinations and orients new employees after hire.
- Manage all employee events: wellness events, employee picnics, city-wide trainings, etc.
- Manage all payroll functions which includes but is not limited to payroll, state and federal reporting, and all auditing functions related to payroll.
- Attend City Council meetings and present information to assist the City Council in consideration of requests for action and making of informed decisions.
- Coordinate and process all personnel transactions with departments.
- Manages and coordinates all separation of employment; Cobra, separation notices, exit interviews, access to facilities, IT access and retirement benefits.
- Manages City's annual open enrollment process for all City benefits which include, but not limited to: health, dental, life, HCSP, deferred comp, PERA and long-term disability.
- Serve as staff liaison to Employee Health Insurance Committee.
- Manages the City's labor union contracts (pay rates, grievances, inquiries, etc.) and the preparation of background materials for labor negotiations and serves as one of the City's representatives for negotiations.
- Represents City at personnel related hearings and investigations when required.
- Manages the City's workers' compensation program.
- Manages research projects, compensation and benefits studies as requested and reports data and recommendations to City Administrator.
- Assist staff and employees in providing training opportunities.
- Supports and enforces City ordinances, policies, procedures, operations and safety rules.
- Manages policies and procedures set forth for IT operations.
- Ensures deployment of IT related needs by other departments of the City are being met.

- Manages the operations of software and hardware management among departments.
- Manage various audio and video needs for the facilities (i.e. council chambers, public works, police, city hall, downtown, etc.)
- Performs other duties or special projects as assigned.
- Attend seminars and workshops related to human resources, payroll, benefits or IT duties and responsibilities.

DESIRED MINIMUM QUALIFICATIONS

Education and Experience:

1. Graduation from a college or university with a bachelor's degree in public administration, human resources, business management, or a closely related field (Masters preferred); and
2. Seven (7) years of related experience.

NECESSARY KNOWLEDGE, SKILLS AND ABILITIES

1. Working knowledge of the principles and practices of modern public administration; working knowledge of human resource administration; working knowledge of modern records management techniques.
2. Skill in operation of listed tools and equipment.
3. Ability to accurately record and maintain records; Ability to establish and maintain effective working relationships with employees, supervisors, other departments, officials and the public.
4. Ability to communicate effectively verbally and in writing.
5. Ability to analyze and effectively resolve a variety of personnel management problems.
6. Ability to prepare numerical and narrative reports with and without the use of computer applications.
7. Working knowledge of state and federal laws and regulations as they apply to City human resources needs.

SPECIAL REQUIREMENTS

A valid state driver's license.

TOOLS AND EQUIPMENT USED

Personal computer, including word processing, spreadsheet, and database software; telephone; copy machine; fax machine.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to sit, talk, hear, read, and use hands to finger, handle, and reach with hands and arms. The employee is required to walk, traverse stairs and various types of environmental settings, ability to drive a car for local and long distance travel; operate audio/visual equipment; ability to regularly make speeches and presentations to the employees and public.

The employee must occasionally lift and/or move up to 25 pounds.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The noise level in the work environment is usually quiet to moderate.

OTHER

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the position change.

CITY OF FARIBAULT POSITION DESCRIPTION

Position Title: Human Resources Assistant
Department: Administration
Reports to: Human Resources Director
FLSA Status: Exempt
Date: October 25, 2022

PRIMARY OBJECTIVE OF POSITION

Performs skilled payroll, human resources, benefits and employment related processes and tasks.

SUPERVISION RECEIVED

Works under the supervision of the Human Resources Director.

SUPERVISION EXERCISED

None.

ESSENTIAL DUTIES AND RESPONSIBILITIES

Payroll:

- Maintain the payroll accounting system for all payroll related data including personnel actions, taxes, direct deposits, deductions, benefits, and accruals.
- Process payroll and review timesheets for accuracy; communicate with departments as necessary to correct errors.
- Post and submit files electronically to bank for automatic deposits, retirement system, and various other benefits required to be submitted electronically.
- Prepare and reconcile quarterly and annual federal and state tax reports and other required reports including W-2s, 941's, unemployment reports, etc.
- Reconcile payroll related general ledger accounts on monthly basis.
- Review and reconcile monthly benefits and deductions to billings and process vendor checks for payroll related benefits and deductions.
- Coordinate with Human Resources Director for budget data related to benefits.
- Verify payroll data supplied by other departments.
- Assist with payroll data requests

Human Resources:

- Maintain the payroll and benefits system for all human resources data and reports.
- Adhere to all City policies, procedures, department's policy and procedure, requirements and be able to assist employees and directors with explanations of them.
- Provide benefit information and assistance to all employees.
- Process enrollment forms for all employee benefit plans including insurance, retirement, deferred compensation, etc.
- Monitor and maintain new employee orientation and benefits materials.
- Assists with recruitment and selection processes.
- Develops and processes requisitions for all open positions through NEOGov system.
- Maintains documents and reports on applicant and examination activity.
- Helps prepare and conducts various interviews and gathers application materials for the hiring process.
- Respond to employment verifications and unemployment compensation wage reports.
- Assist with coordination of the City's benefits program; research and evaluate desired programs, benefits, and cost effectiveness.
- Monitor the employee status changes for employees: new hires, wage increases, benefit changes, schedules and seasonal terminations.
- Assist with general inquiries regarding city employment and assist with the processing and maintenance of all confidential materials.
- Assist with updates and maintenance of the human resources webpage and employment information on the City's web site, electronic enrollment system, and the Employee Self Service intranet access.
- Assist with research and preparation for labor negotiations, arbitrations, and other employee related matters.
- Maintains and updates personnel files to ensure data integrity.
- Assemble new hire packets and orientation materials.
- Schedule drug and alcohol testing for DOT program. This also includes pre-employment, random, reasonable suspicion, and follow up testing. Maintain all drug and alcohol testing required files.
- Calculate and work with Human Resources Director in the processing of all severance, vacation, sick, retirement or any agreements that need to be paid to employees.
- Prepare Human Resource related accounts payable and prepare expense invoices.
- Assist City departments, divisions and outside agencies as directed.

OTHER DUTIES:

- Attend meetings and serve on committees as needed.
- Assist with budget preparation including spreadsheets, charts, graphs, and reports.
- Ability to communicate effectively orally and in writing: interact effectively with co-workers and the general public.
- Maintain a high level of confidentiality and comply with all legal requirements of the job.
- Perform other duties as assigned or apparent.

MINIMUM QUALIFICATIONS

Education and Experience:

- Two year associate's degree in Human Resources, Business Administration or related field.
- Two to three years previous human resources, payroll, and benefits experience required.

PREFERRED QUALIFICATIONS

- Bachelor's degree from an accredited college or university in Human Resources Management.
- Human Resources Generalist certification.
- Public sector Human Resources experience.
- HRIS database experience preferred.

KNOWLEDGE, SKILLS AND ABILITIES

- Working knowledge of the principles and practices of modern public administration; working knowledge of human resource administration; working knowledge of modern records management techniques.
- Skill in operation of listed tools and equipment.
- Ability to accurately record and maintain records; Ability to establish and maintain effective working relationships with employees, supervisors, other departments, officials and the public.
- Ability to communicate effectively verbally and in writing.
- Ability to analyze and effectively resolve a variety of personnel management problems.
- Ability to prepare numerical and narrative reports with and without the use of computer applications.
- Working knowledge of state and federal laws and regulations as they apply to City human resources needs.

SPECIAL REQUIREMENTS

A valid state driver's license.

TOOLS AND EQUIPMENT USED

Personal computer, including word processing, spreadsheet, and database software; telephone; copy machine; fax machine.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this position. Reasonable accommodations may be made to enable an individual with disabilities to perform the essential functions.

While performing the duties of this position, the employee is frequently required to sit, talk, hear, read, use hands to finger, handle, feel or operate objects, tools or controls; and reach with hands or arms. The employee is occasionally required to walk and drive a car.

The employee must occasionally lift/push/pull and/or move items up to 25 pounds. Specific vision abilities required by this job include close vision and the ability to adjust focus.

This position requires the ability to apply principles of logical or synthesis functions. Ability to deal with several concrete and abstract variables, and to analyze major problems that require complex planning for interrelated activities that can span one or several work units.

Requires the ability to exercise the judgment, decisiveness and creativity in situations involving the direction, control and planning of an entire program or set of programs.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job.

The noise level in the environment is usually quiet.

OTHER

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and the requirements of the job change.

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