

ORDINANCE NO. 120551, AS AMENDED

Amending Chapters 60, 61 and 78, Code of Ordinances of Kansas City, Missouri, entitled “Sewers and Sewage Disposal”, “Stormwater” and “Water”, respectively, by repealing those chapters and enacting in lieu thereof new chapters of like number and subject matter.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapters 60, 61 and 78, Code of Ordinances of Kansas City, Missouri, entitled “Sewers and Sewage Disposal”, “Stormwater” and “Water”, respectively, by repealing those chapters and enacting in lieu thereof new chapters of like number and subject matter, to read as follows:

CHAPTER 60 - ARTICLE I. - IN GENERAL

- Sec. 60-1. Control of sewers and sewage treatment works.
- Sec. 60-2. Sewer charges for resident users.
- Sec. 60-3. Sewer charges for nonresident users.
- Sec. 60-4. Use of sanitary charges.
- Sec. 60-5. Exemption from sewer charges.
- Sec. 60-6. Payment of sewer charges.
- Sec. 60-7. Measurement of water use when water not supplied by city.
- Sec. 60-8. Prohibited deposits.
- Secs. 60-9—60-19. Reserved.

Sec. 60-1. Control of sewers and sewage treatment works.

(a) The water services department shall have control of, and responsibility for, the planning and construction of all sanitary sewers which are financed by special assessment against the benefited property, all sewers constructed privately as a part of the city's sewer system, by persons, firms, corporations and associates, under a permit issued by the water services department, and sewers constructed from funds otherwise made available to the department by appropriate action of the city council.

(b) The water services department shall have responsibility for the planning and construction of all sewerage works which are financed by revenue from sewer service charges, from revenue derived from the sale of bonds redeemable from sewer service charges, from revenues derived from grants of the federal or state government or any governmental entity, and from funds otherwise made available to the water services department by appropriate action of the city council. The water services department shall also have responsibility for the maintenance and operation of the city sewerage system, including sanitary sewers, storm sewers, combined sewers, pumping stations, force mains and sewage treatment works.

Sec. 60-2. Sewer charges for resident users.

There are hereby levied charges against every person, partnership, corporation, association, and other entity within the city limits having an actual or available connection with the city's sanitary sewer system, or otherwise discharging sewage,

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industrial waste, water or other liquid into the system. All charges shall be prorated per day during the billing period. Such charges are to be the sum of charges for service, volume and high concentration charges to be computed and levied as follows:

- (1) *Service charges.*
 - a. *Sanitary sewer.* A service charge of \$11.55 per month to defray in part the cost of billing, collecting, accounting services, system availability and readiness to serve the customer, and shall be prorated per day during the billing period and shall apply whether or not any sewage or wastes are actually discharged to the city sewer during the billing period; such charges are to be made each month.
 - b. *Wastewater discharge permits.* Commercial and industrial users shall pay for the cost of the wastewater discharge permitting program as described and authorized in article IV of this chapter. Permit application fees, permit maintenance fees and other miscellaneous charges as authorized in article IV of this chapter shall be billed and collected with the commercial or industrial users' normal water and/or sewer billing charges.
- (2) *Volume charges.* A volume charge of \$3.82 per 100 cubic feet based upon the total volume of water purchased by the customer during the billing period subject to the following adjustments:
 - a. *Water supplied from separate source.* Where water is supplied by a separate and independent source, the sewage volume charge shall be based upon the volume of water used, where such information is available, and computed at the volume charge established herein. Where usage information is not available, the water services department shall determine an appropriate volume of water used and compute it at the volume charge established herein.
 - b. *Residential accounts.* Except as noted in (2)(a), residential service account (one- and two-family residences) volume charges for the bills generated during the months of May through December shall be based upon water used during the winter period, such winter period being the bills generated during January through April, (these are the billing periods that most closely correspond to the December through March usage); such charges shall be payable with each bill rendered throughout the year. Where residential water services accounts do not have an acceptable history of winter water use, the volume charge for bills generated during the months of May through December shall be the volume charge established herein, or \$28.65 per month, whichever is the lesser.

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- c. *Commercial and industrial water accounts with diverted water uses.* Commercial and industrial water accounts are all water service accounts other than one- and two-family dwellings. Diverted water uses are those where a significant portion of the water purchased is used in manufactured products such as ice, canned goods or beverages and the product is transported in containers away from the premises or where the water purchased is lost by evaporation or irrigation. The director of the water services department or the director's representative, shall make the determinations of fact as to the amount of water which is diverted, and shall have authority to adjust the sewer use volume billed on the basis of the facts ascertained. There is an application fee of \$335.00 for site review, plan review and installation inspection.
- (3) *Commercial and industrial water accounts with high concentration discharges.* Commercial and industrial water accounts shall include all water service accounts other than one- and two-family dwellings. High concentration discharges are those in which the BOD (biochemical oxygen demand), SS (suspended solids), and/or O&G (oil and grease) concentrations are in excess of the maximum concentration of these components in normal sewage as defined in article IV of this chapter. In addition to other sewer service and volume charges, a surcharge, as established by the formulae defined and set forth in article IV of this chapter, shall be levied on high concentration discharges received from any customer under this section.

For surcharge rate formulae calculation purposes, the following rates are hereby established:

RB (surcharge per pound of excess BOD) = \$0.297

RS (surcharge per pound of excess SS) = \$0.181

RG (surcharge per pound of excess O&G) = \$0.131

The director of water services is hereby authorized to promulgate regulations to develop various groups and classes to facilitate the equitable distribution of surcharge fees among like groups of customers.

- (4) *Definition.* Month or monthly, as used in this section, shall refer to a time period of 30 days.

Sec. 60-3. Sewer charges for nonresident users.

(a) There are hereby levied charges against every person, partnership, corporation, association, and other entity outside the city limits having a connection with the city's sanitary sewer system or otherwise discharging sewage, industrial waste, water or other liquids into the city's sewer system.

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All charges billed shall be prorated per day during the billing period. Such charges are to be the sum of service charges and volume charges to be computed and levied as follows:

- (1) *Metered connections with municipalities and political subdivisions.* Bulk flows through a metered interconnection with a municipality or other political subdivision shall be charged and pay a rate of \$2.21 per 100 cubic feet (ccf), with no service charges.
- (2) *Metered connections with municipalities and political subdivisions directly connected to the treatment plant.* Bulk flows through a metered interconnection with a municipality or political subdivision connected directly to the treatment plant shall be charged and pay a rate of \$2.13 per 100 cubic feet (ccf), with no service charges.
- (3) *Unmetered connections with municipalities and other political subdivisions.* Bulk flows through an unmetered interconnection with a municipality or other political subdivision shall be charged and pay a rate of \$2.79 per 100 cubic feet (ccf) of actual water consumption for all residential, commercial and industrial customers, and shall also pay a service charge of \$9.90 per month for each such customer.
- (4) *Unmetered connections with municipalities and other political subdivisions; no water consumption records.* Where actual water consumption records are not available, bulk flows from a municipality or political subdivision through an unmetered interconnection shall pay a sewer charge of \$30.26 per month per dwelling unit or equivalent dwelling unit.
- (5) *Individual non-resident customers billed directly by the city.* Individual non-resident customers billed directly by the city shall pay a service charge of \$17.84 per month, plus a volume charge of \$5.56 per 100 cubic feet (ccf).
- (6) *Accounts with high concentration discharges.* High concentration discharges are those in which the BOD (biochemical oxygen demand), SS (suspended solids), and/or O&G (oil and grease) concentrations are in excess of the maximum concentration of these components in normal sewage as defined in Article IV of the chapter. In addition to other sewer service and volume charges, a surcharge, as established by the formulae defined and set forth in Article IV of this chapter, shall be levied on high concentration discharges received from any non-resident user.

For surcharge rate formulae calculation purposes, the following rates are hereby established:

RB (surcharge per pound of excess BOD) = \$0.341

RS (surcharge per pound of excess SS) = \$0.205

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RG (surcharge per pound of excess O&G) = \$0.133

The Director is hereby authorized to develop various groups and classes to facilitate the equitable distribution of surcharge fees among like groups of customers.

(b) *Definition.* Month or monthly, as used in this section shall refer to a time period of 30 days.

(c) *Applicability.* This section may not be applicable where arrangements for sewer service and sewer service charges are established by an existing or future contract or cooperative agreement.

Sec. 60-4. Use of sanitary charges.

Revenues from sanitary sewer charges are to be used to pay the cost of operating, maintaining, repairing or enlarging the existing or future sanitary sewer system and for paying the principle of and interest on the negotiable interest-bearing sewer revenue bonds of the city.

Sec. 60-5. Exemption from sewer charges.

All occupants of property not having a connection with the sanitary sewer system of the city and not having sewers available for connection shall be exempt from the sanitary sewer service charge and the volume charge.

Sec. 60-6. Payment of sewer charges.

The sewer charges provided in sections 60-2 and 60-3 shall be due and payable to the water services department at the same time as the water bill, or at such other time as designated on the bill for the sewer charges.

Sec. 60-7. Measurement of water use when water not supplied by city.

If an occupant of property discharging sewage, industrial waste, water or other liquids into the city sewerage system is not a user of water supplied by the water services department of the city, then such occupant, at his own expense, shall install a meter or other measuring device acceptable to the director of the water services department for the purpose of measuring water used on the property. Should the occupant fail to install such meter or measuring device, then the director of the water services department shall compute the amount of water used and such computation shall be the basis of the sanitary sewer service charge. Access to such meter or other measuring device as may be installed shall be given to the water department employees for the purpose of reading, inspecting, testing or repair of such meter or other measuring device at any reasonable time.

Sec. 60-8. - Prohibited deposits.

No person shall deposit or throw, or cause to be thrown or deposited, into any sewer, sewer inlet or manhole, any animal or vegetable substance or any hay, straw, ashes, cinders, sticks, shavings, trash, soot, oyster shells, cans, rubbish, broken ware,

rags, pieces of iron or other metal or old wearing apparel, or any other article or thing whatsoever that may obstruct the free flow of water therein.

Secs. 60-9—60-19. - Reserved.

CHAPTER 60 - ARTICLE II. - SEWER AND DRAIN CONSTRUCTION AND CONNECTION

DIVISION I. - CONSTRUCTION

DIVISION II. - COSTS OF CONSTRUCTION, SPECIAL ASSESSMENTS

DIVISION I. - CONSTRUCTION

Sec. 60-20. City's powers to construct sewers and drains.

Sec. 60-21. Sewers.

Sec. 60-22. Public sewers.

Sec. 60-23. District sewers.

Sec. 60-24. Joint district sewers.

Sec. 60-25. Private sewers.

Sec. 60-26. Connecting private sewers to trunk sewers—Generally.

Sec. 60-27. Connecting building sewers and other private drains to public sewer.

Sec. 60-28. Connecting private sewers with district or joint district sewers.

Sec. 60-29. Connecting private sewers with district or joint district sewers—Bonds; liability insurance.

Sec. 60-30. Connecting private sewers with district or joint district sewers—Contents of contract; recording of contract.

Sec. 60-31. Guards, lights and barriers.

Sec. 60-32. Construction of private sewage disposal systems.

Secs. 60-33—60-39. Reserved.

Sec. 60-20. City's powers to construct sewers and drains.

The city shall have power to acquire, construct, reconstruct, repair, maintain, enlarge, alter and extend sewers, drains, canals, septic tanks, sewage disposal works and plants, including all inlets, outlets, equipment and other appurtenances thereto; and to improve water courses and the banks thereof, divert the water thereof and change the channels of the same, and to pay for such public improvements, in whole or in part, out of the general funds or by bonds or the proceeds of bonds, or by special assessments on land, or special tax bills or securities evidencing special assessments, and to make, levy, assess and collect special assessments to pay therefor, in the manner provided herein, and to issue special tax bills and other evidences of such assessments. When not otherwise limited or prohibited by the constitution of the state, the powers above enumerated may be exercised by the city outside of the city limits for the benefit of the city and its inhabitants.

Sec. 60-21. Sewers.

The general sewer system of the city shall be divided into four classes, to-wit: public, district, joint district and private sewers. The city may, by ordinance, find and

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determine the class to which any sewer belongs, and the finding and determination of the city in that respect shall be final and conclusive.

Sec. 60-22. Public sewers.

Public sewers shall be established and constructed at such time, to such extent, and of such dimensions and materials as may be approved by the director of water services, and under such regulations as may be provided by ordinance. Such sewers may be extensions or branches of sewers already constructed, or to be constructed, or entirely new throughout, as may be deemed expedient. Public sewers shall be paid for out of the general fund of the city or out of the proceeds of bonds, or otherwise than by special assessments, except as provided in section 60-47.

Sec. 60-23. District sewers.

District sewers shall be constructed or reconstructed within the limits of the districts heretofore or hereafter established by ordinance, as the case may be. Any sewer district heretofore or hereafter established may be subdivided, enlarged or changed by ordinance at any time previous to the construction of any district sewer therein; but no such district shall be subdivided, enlarged or changed after a district sewer shall have been constructed therein.

The city may, with the approval of the director of water services, from time to time, cause a district sewer or sewers in any sewer district heretofore or hereafter established, to be constructed or reconstructed; and every such sewer or sewers shall be such as shall be prescribed by the director of water services and confirmed as herein required by ordinance.

Any district sewer heretofore or hereafter constructed may be changed, diminished, enlarged or extended, and shall have such laterals, inlets and other appurtenances as may be prescribed by the director of water services and confirmed by ordinance.

Sec. 60-24. Joint district sewers.

Whenever the city shall deem it necessary that a sewer be constructed or reconstructed in any part of the city containing two or more sewer districts it may, by ordinance, unite such sewer districts into a joint sewer district and cause a sewer to be constructed therein and assessments may be levied and apportioned to pay therefor, or for reimbursement of the revolving public improvement fund for payments made on account thereof, in like manner in all respects as is provided in this article in case of district sewers; except that in cases of joint district sewers the city may provide in the ordinance creating such joint sewer district and authorizing such joint sewer that the city shall pay a certain sum, to be specified in said ordinance, toward the cost of such joint district sewer.

Should the council, by ordinance, unite two or more sewer districts into a joint sewer district for the purpose of constructing or reconstructing a joint district sewer therein, such action of the council shall be conclusive for all purposes, and no special tax bills or assessments shall be held invalid or affected on account of the included drainage area thereof, or the size, character and purpose of such sewer, but no sewer district shall

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be included in such joint district which is not included in the natural drainage area of the valley or watercourse in which the joint district sewer is proposed to be constructed.

Sec. 60-25. Private sewers.

Private sewers may be constructed under such regulations, specifications and restrictions as may be provided by the director of water services; but the city shall be at no expense in the construction or repairing of the same. Sewers constructed by private contract, or private sewers constructed in any public street, alley or other highway, or on land in and on which the city has an easement, under plans and specifications approved by the director of water services and under his supervision, may upon his recommendation be accepted and taken over by the city by ordinance of the council, in which case the city shall thereafter assume the care and maintenance thereof.

Sec. 60-26. Connecting private sewers to trunk sewers—Generally.

(a) The director of water services is hereby authorized to permit private developers, by contract, to connect private sewers built by them to accessible trunk sewers previously constructed by the city.

(b) Such sewer connections shall be in accordance with plans and specifications approved by the director of water services, and he shall have the right to inspect the construction thereof and their operations at any time.

Sec. 60-27. Connecting building sewers and other private drains to public sewer.

(a) After first obtaining a permit for connection from the water services department, the actual connection of any building sewer or other private drain to a city sewer shall be inspected by a water services department inspector.

(b) The director of the water services department is hereby authorized to adopt regulations governing the methods of connecting to a public sewer. The water services department may be requested to make a connection at the applicant's expense when the plumber or resident homeowner does not have the proper equipment.

(c) The director is authorized to establish inspection and tapping fees, and to adjust such fees from time to time as necessary to reflect costs to the water services department for rendering such services.

Sec. 60-28. Connecting private sewers with district or joint district sewers.

(a) No permit shall be issued to connect any private sewers or drainage from any private property with a district or joint district sewer, if such property or any part thereof has been assessed for the construction of district or joint district sewers, and special tax bills have been issued evidencing such assessment, until such assessment or part thereof has been paid, if at the time such permit is applied for such assessment or any part thereof shall be due, but if no part thereof is due when the permit is applied for, then before such permit shall be issued the owner of the property shall file with the director of water services a written agreement not to contest such assessment and to pay such assessment when the assessment becomes due; and any permit issued where the assessments are not due as provided in this subsection shall contain the provision that the right to connect

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with such district or joint district sewers shall cease if any person interested in the property shall contest the validity of such assessment, and if such contest shall be made all rights under such permits shall cease.

(b) Notwithstanding the provisions of subsection (a) of this section, if the city manager finds that:

- (1) The owner of the property is unable to pay such assessment without undue financial hardship; and
- (2) The issuance of the permit is necessary to abate a nuisance or for the public health and safety;

such permit may be issued without making the payment or filing the agreement required in subsection (a) of this section. This subsection shall have no effect on the owner's obligation to pay the assessment on the property.

(c) If the lien of any such tax bills shall have expired under the provisions of the Charter of the city, and no suit has been brought to enforce the tax bills as provided in the Charter, such tax bills shall be presumed to have been paid and the permit may be issued without making the payment or without filing the agreement provided for in this section.

(d) If the owner or anyone interested in the property shall show that any such district or joint district sewer is not constructed in substantial compliance with the ordinance and contract provided for such construction, in such case the owner or any person interested in such property shall only be required to pay such amount as the court shall find that such district or joint district sewer benefits the property, such amount in no case to exceed the amount of the special tax bill and interest thereon.

Sec. 60-29. Connecting private sewers with district or joint district sewers—Bonds; liability insurance.

(a) Before making any sewer connections referred to in section 60-26, the developer shall file with the director of water services a bond in the amount of one-half the construction cost, conditioned that the sewers to be constructed and the connections to the city sewers will be constructed in accordance with the city's standard sewer specifications, and that the sewers and connections authorized shall be maintained in good condition for a period of five years immediately following the construction.

(b) In cases where sewers and sewer connections are to be constructed across properties within the city, the developer shall be required to file with the director of finance an additional bond, in an amount sufficient to protect the city from all claims for damages to property or injury to person by reason of the construction of such sewer connection, or, in lieu of such bond, a certificate of public liability insurance indemnifying the city for any amount it may be required to pay for property damage or personal injury.

Sec. 60-30. Connecting private sewers with district or joint district sewers - Contents of contract; recording of contract.

(a) Any contract entered into by a developer and the director of water services as provided in section 60-26 shall provide that, if annexation is declared invalid, the developer, or his successors in ownership of the lands to be served, shall pay to the city a service charge of \$50.00 per year for each private residence served by such sewers for each year the area in which the sewers are located is not legally a part of the city, for a period not to exceed 20 years. Where business and industrial property is to be served, the amount of the annual service charge shall be determined by the director of water services. Such contract shall be filed and recorded with the recorder of deeds in the respective county in which the sewers are to be constructed, along with a copy of the approved subdivision plat, and shall provide that the developer shall have the right to transfer responsibility for payment of the annual service charge to his successors in ownership by covenant running with the land.

(b) Such contract shall state that the granting of the permission for a sewer connection from projects now outside the city does not exempt the property drained from being taxed for the construction of public sewers in any district or joint district hereafter established in which these sewers are constructed, and it shall not be understood that the construction of the sewers, or the property drained by them, establishes a separate sewer district.

(c) Such contract shall further provide that the city retains the right and power to make use of, construct, reconstruct or change the sewers and the connections to the city sewers, laterals and appurtenances, as may be necessary for the sewerage of the property to be drained under the terms of such contract.

Sec. 60-31. Guards, lights and barriers.

Any person who shall improperly remove, interfere with, destroy or displace the lights, guards, fences and other means of protecting persons and property from injury and damages on account of the doing of work to be provided by this section shall be deemed guilty of an ordinance violation.

Sec. 60-32. Construction of private sewage disposal systems.

(a) *Permit required.* No person shall construct a private sewage disposal facility or system on any individual lot or lots in any subdivision of land located in the city, or on any single parcel or tract of land under common ownership, where such sewage disposal facility or system is not intended to be part of the city's sewage system, without first procuring from the city planning and development department a permit for such construction.

(b) *Survey fee; inspection fee.* Where the city planning and development department deems that a survey of the property in question is necessary before such permit can be issued, a private sewage disposal system survey fee of \$25.00 shall be assessed. The private sewage disposal construction inspection fee shall be \$25.00.

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(c) *Construction standards.* The plans and construction of the private waste disposal system shall be in accord with the regulations of the state division of health, state department of natural resources and state clean water commission, except as modified by the building code engineer to conform with conditions common to the city and applicable to city standard specifications.

(d) *Penalty for failure to obtain permit.* Any person who shall construct a private sewage disposal system without first having procured a permit shall be guilty of a violation, and upon conviction thereof shall be fined not less than \$25.00 and not more than \$500.00 for each separate violation.

Secs. 60-33—60-39. - Reserved.

DIVISION II. - COSTS OF CONSTRUCTION, SPECIAL ASSESSMENTS

Sec. 60-40. Payment for sewer improvements and construction outside the city limits.

Sec. 60-41. Institution of proceedings by resolution; estimate.

Sec. 60-42. Hearing set; publication of notice.

Sec. 60-43. Hearing; decision of director.

Sec. 60-44. Rules for apportioning assessments.

Sec. 60-45. Cost of district sewers; how apportioned.

Sec. 60-46. Cost of joint district sewers; how apportioned.

Sec. 60-47. Preparation of assessment roll.

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Sec. 60-49. Payment of assessments; interest.

Sec. 60-50. Assessment to constitute lien on property; collection of delinquent assessments.

Sec. 60-51. Connection with sewer main not permitted for property for which assessments are delinquent.

Secs. 60-52—60-70. Reserved.

Sec. 60-40. Payment for sewer improvements and construction outside the city limits.

For the purpose of purifying or handling the discharge from any sewer, or outlet thereof, the city may from time to time by ordinance provide for the construction or reconstruction within or without the limits of the city, of sewers, sewer outlets, or other sewage reduction or purifying devices, or any other plan or device to care therefor. The cost of such sewers, sewer outlets, or devices may be paid for in part or in whole out of the general fund or bond funds; or in case of their use in connection with a district or joint district sewer, or outlet thereof, the cost may be paid for in part or in whole by special assessments levied against the lands in the sewer district or joint sewer district from which the sewage is collected, in the same manner as cost of constructing or extending a district or joint district sewer therein may be paid.

Sec. 60-41. Institution of proceedings by resolution; estimate.

All proceedings to make any of the public improvements authorized herein shall, unless otherwise expressly provided in this Code, be begun by the adoption and entry of a declaration of necessity (hereinafter referred to as the resolution) by the director of water services. Such resolution shall be entered on the records of the department, and shall state the nature of the improvement, and when the same is to be paid for in special tax bills or other evidences of assessments upon real property (or out of the revolving public improvement fund, to be reimbursed by collection of such assessments), it shall state the method of making assessments to pay therefor. The director shall prepare an estimate of the probable cost of such proposed improvement. Such estimate shall be open to inspection and discussion at any hearing held as to such improvement. Any error or inaccuracy in such estimate, as compared with the actual cost of the work as finally determined, shall not affect the validity of the proceedings or of any assessments made or tax bills or other securities issued to pay for such work.

Sec. 60-42. Hearing set; publication of notice.

(a) *Publication.* At or after the adoption and entry of record of any such resolution (described in section 60-41), the director of water services shall, by order, fix a day upon which a hearing in respect to such improvement shall be had, which day shall be within 30 days after the date when such order is made. The director shall also cause to be published for six days in the newspaper at the time doing the city printing, and if there be no such paper, then in any other newspaper published in the city, a notice of the proposed improvement. Such notice shall recite briefly the fact that such improvement is proposed, the general nature thereof, the sewer district or districts within which, such improvement is proposed to be made, and that a hearing concerning the same will be had by the said director, at his office, or other place designated in the notice, and the date upon which the hearing shall be had.

(b) *Mailing to property owners.* The director of the water services department shall also cause a notice of proposed improvement to construct such proposed sewers and related appurtenances thereto to be sent by mail to every owner whose property will be subject to assessment. Such notice should include information required by state statutes. Names of such property owners shall be determined and taken from the assessment and levy of general taxes by the city; but no defect or mistake in the records or in the description therein of the lots or in the name of such apportionment shall impair the validity of the assessments, liens or bills issued pursuant to this article. The absence of proof that such notice was sent or received shall not affect the validity of the proceedings, or of any special assessment thereafter made, so long as the published notice specified in subsection (a) of this section has been properly accomplished.

Sec. 60-43. Hearing; decision of director.

On the date fixed for such hearing (provided for in section 60-43) any and all property owners interested in such improvement may, by written petition or otherwise, present their views in respect to the proposed improvement to the said director, and the said director may adjourn the hearing from time to time. After such hearing, if the said director shall determine that it is not for the public interest that the proposed

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improvement, or a part thereof, be made, and paid for either out of the general fund or by any method of assessment, or otherwise, the director shall make an order to that effect, and thereupon the proceedings for the improvement, or part thereof, determined against by such order, shall stop and shall not be begun again until the adoption of a new resolution. No remonstrance or objection shall stay any proceedings, and when the director of the water services department determines such project or any portion thereof to be necessary or unnecessary, the director's decision shall be final. Within 30 days after the director of the water services department has made a determination of necessity, the director of the water services department shall cause a notice of that determination, containing the legal description of each property that will be subject to assessment, to be filed in the office of the recorder of deeds for the county in which the properties are located. Any failure by the director of the water services department to file the notice in accordance with this section shall not invalidate the special assessments subsequently levied, and the burden of proof shall be upon anyone claiming damage on account thereof to show, in an appropriate action, the fact of such failure and that actual damage was caused thereby.

Sec. 60-44. Rules for apportioning assessments.

When the cost of the whole or any part of any improvement referred to or authorized in this article is to be paid for by special assessments or by special tax bills evidencing special assessments on lands deemed benefited by such improvement, such assessments shall, unless otherwise herein expressly provided and authorized, be made, levied and assessed according to the area rule, which shall be held to mean that the required sum shall be assessed and charged against the several lots, tracts and parcels of land, subject to special assessment by the city, within the chargeable district, in the proportion that their areas respectively bear to the area of all the lands within the chargeable district, exclusive of public highways therein.

Sec. 60-45. Cost of district sewers; how apportioned.

As soon as the work of constructing, changing, diminishing, enlarging or extending any district sewer, as aforesaid, shall have been completed under a contract let for the purpose, the director of water services shall compute the whole cost thereof, and apportion and charge the same or the portion of same to be paid by special assessments as a special tax against the lots, tracts and parcels of land in the district, in the proportion that their respective areas bear to the area of the whole district exclusive of the streets, parkways, boulevards, alleys and public highways therein, according to the area rule, as defined above, or by application of a different method if required by state statute. The director of water services shall thereupon, except as in this article provided, make out and certify to the city in cases provided for in this article, special tax bills for the amount of the special tax against each lot, tract and parcel of land in the district. The city shall in no event, nor in any manner whatever, be liable for or on account of the cost of work done in constructing, changing, diminishing, enlarging or extending any district sewer, except as in this article provided.

Sec. 60-46. Cost of joint district sewers; how apportioned.

The cost of joint district sewers shall be apportioned and assessed in the same manner as district sewers.

Sec. 60-47. Preparation of assessment roll.

After the director of the water services department computes the applicable cost, the director shall submit to the finance department the apportionment of the cost of the project as provided for in sections 60-44, 60-45, and 60-46. The finance department shall prepare a roll of all lots or parcels of real estate to be so assessed, containing the name and mailing address of the owner of each such lot or parcel, and a special tax statement for each such lot or parcel.

Sec. 60-48. Assessment notice.

After the assessment roll and tax statements provided for in section 60-47 have been certified by the director of the water services department and delivered to the finance department, a copy of the tax statement will be mailed by the finance department to each person whose name appears on such roll.

Sec. 60-49. Payment of assessments; interest.

Full or partial payment of assessments under this article may be made without interest during a 60-day period commencing with the date of issue of such statement. The remaining principal will be spread over a payment period not to exceed ten years, or such period of time as may be established in the ordinance approving the project. The first annual installment will be due June 30 following the date of the statement, except that, if the date of certification is between April 29 and July 1, the date of the first installment shall be June 30 of the following year. Subsequent installments will be due on June 30 of each year. Any special assessment not paid in full before the expiration of 60 days from the date of the statement shall bear interest, from the date of said statement, at a rate per annum equal to the rate on ten-year United States treasury notes as established at the last auction before the assessment is certified to the director of finance. If any installment is not paid when due then all of the remaining installments shall become immediately due and payable and bear interest at a rate per annum two percent higher than the interest rate on assessments which are not delinquent, from the date to which interest has already been paid on said installments, or, if no installment has been paid, from the date of the statement. Full payment of the total assessment, principal and interest, for each respective lot, tract, or parcel must be made prior to any ownership split or subdivision of said lot, tract, or parcel. All moneys received from this source shall be credited to the sewer fund.

Sec. 60-50. Assessment to constitute lien on property; collection of delinquent assessments.

An assessment under this article shall constitute a lien upon the real estate, and when delinquent, shall be subject to collection in the same manner as provided for other

public improvement special assessment projects under state law, the City Charter, and the Code of Ordinances.

Sec. 60-51. Connection with sewer main not permitted for property for which assessments are delinquent.

No connection shall be permitted with any sewer main or appurtenances constructed pursuant to the provisions of this article if, at the time, there is outstanding a delinquent assessment for such sewer main improvement against the real estate to be served by such connection.

Secs. 60-52—60-70. Reserved.

CHAPTER 60 - ARTICLE III. – SEPTIC TANKS, PORTABLE RESTROOMS, PRIVY VAULTS AND CESSPOOLS

Sec. 60-71. Prohibited deposits.

Sec. 60-72. Filling vaults.

Sec. 60-73. Permitted times for removal of contents; place of disposal of contents.

Sec. 60-74. Required equipment for cesspool cleaners; method of removal of waste.

Sec. 60-75. Construction and identification of vehicles and tanks of cesspool cleaners.

Sec. 60-76. Bond for cesspool cleaners; issuance of business license.

Sec. 60-77. Manner of cleaning.

Sec. 60-78. Certain vaults and cesspools declared nuisance.

Sec. 60-79. Offensive conditions prohibited.

Sec. 60-80. Violations.

Secs. 60-81—60-110. Reserved.

Sec 60-71. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning .

Cesspool means a covered hole or pit for receiving drainage or sewage.

Privy vault means a small, enclosed structure having one or two holes in a seat built over a pit and serving as an outdoor toilet. This term is usually associated with an outhouse.

Septic tank means a chambered, underground tank that separates and stores solids from septic waste.

Septic waste receptacle means any receptacle, such as a septic tank, privy vault, mobile restroom or cesspool, built to receive septic waste.

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Septic waste vehicle means any vehicle or tank used for the removal and handling of septic waste from septic waste receptacles.

Sec. 60-72. Prohibited deposits.

No person shall deposit or throw, or cause to be thrown or deposited, into any privyvault, cesspool, or septic tank, any animal or vegetable substance or any hay, straw, ashes, cinders, sticks, shavings, trash, soot, oyster shells, cans, rubbish, broken ware, rags, pieces of iron or other metal or old wearing apparel, or any other article or thing whatsoever that may obstruct the free flow of water therein.

Sec. 60-73. Filling privy vaults.

No person shall fill up privy vaults with earth or other materials until the privy vaults have been cleaned.

Sec. 60-74. Permitted times for removal of contents from septic tank receptacles; place of disposal of contents.

The contents of septic waste receptacles shall be removed only in the daytime and only to such places allowed by law.

Sec. 60-75. Required equipment for septic waste receptacle cleaners; method of removal of waste.

(a) All persons engaged in the business of cleaning or removing the contents of septic tank receptacles within the corporate limits of the city shall provide odorless, sanitary pumps and airtight, odorless tanks set upon vehicle trucks for the removal of the contents.

(b) Any person engaged in such business shall pump the contents of any septic waste receptacles, if liquid enough to pump, directly into the odorless tanks set upon vehicle trucks by means of such odorless sanitary pumps, and no septic tank receptacle shall be emptied or the contents thereof removed in any other manner than is provided in this section; provided, however, that, when the contents of any such receptacle are of such a consistency that such odorless, sanitary pumps can in no way be used in the removal thereof, then the contents shall be taken out and removed in odorless tight barrels, in vehicles, such barrels to be kept thoroughly clean and to have airtight covers. No person shall move any of the contents of septic tank receptacles except in perfectly tight tanks, which shall be on regularly licensed vehicles.

Sec. 60-76. Construction and identification of vehicles and tanks of septic waste receptacles.

Before any vehicle or tanks shall be used for the purpose specified in this article, they shall be well painted and kept so painted. Such vehicles shall have painted on the sides thereof, in plain, easily visible letters, the number of the vehicle and the name and address of the proprietor to whom the vehicle belongs, and there shall also be painted on

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the sides of such vehicles the words "Septic Waste Vehicle" or similar words to identify the vehicle as such.

Sec. 60-77. Bond for septic waste receptacle cleaners; issuance of business license.

(a) Any person engaged in the business of septic waste receptacle cleaning shall enter into a bond to the city in the sum of \$1,000.00 to ensure a faithful compliance with the ordinances of the city. Such bond shall be approved by the director of finance.

(b) The commissioner of revenue shall not issue any license to anyone engaged in the cleaning of septic waste receptacles unless he shall show to the commissioner of revenue a certificate from the director of health, certifying that such applicant has complied with all the provisions of this article.

Sec. 60-78. Manner of cleaning.

The cleaning of all septic waste receptacles shall be done in such a manner allowed by law and in a manner that does not create a nuisance and in a manner as inoffensive and free from odors and gases as possible. The health department, for the purpose mentioned in this section, is hereby vested with full power to make all necessary rules and regulations regarding the cleaning of septic waste receptacles.

Sec. 60-79. Offensive conditions prohibited.

No person shall allow or suffer any cellar, septic waste receptacles, vault, private drain, pool, cesspool or sewer upon any premises owned or occupied by him or her, or under his or her control, to become nauseous, offensive or disagreeable to the smell or injurious to the health of any inhabitant of the neighborhood thereof, or to the public health.

Sec. 60-80. Violations.

Any person violating or failing to comply with any of the provisions of this article, or any of the rules or regulations made by the health department by virtue of authority for that purpose conferred in this article, shall be deemed guilty of an ordinance violation.

Secs. 60-81—60-110. Reserved.

CHAPTER 60, ART. IV. COMMERCIAL AND INDUSTRIAL WASTE

- DIVISION 1. - GENERAL PROVISIONS
- DIVISION 2. - GENERAL SEWER USE REQUIREMENTS
- DIVISION 3. - PRETREATMENT OF WASTEWATER
- DIVISION 4. - WASTEWATER DISCHARGE PERMITS
- DIVISION 5. - REPORTING REQUIREMENTS
- DIVISION 6. - RESERVED
- DIVISION 7. - MONITORING AND INSPECTION
- DIVISION 8. - VIOLATIONS AND PENALTIES
- DIVISION 9. - FEES AND COSTS

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DIVISION 10. - INTERJURISDICTIONAL AGREEMENTS

DIVISION 11. - MISCELLANEOUS PROVISION

DIVISION 1. - GENERAL PROVISIONS

- Sec. 60-111. Purpose and policy.
- Sec. 60-112. Definitions and rules of construction.
- Sec. 60-113. Abbreviations.
- Sec. 60-114. Administration.
- Sec. 60-115. Analytical requirements.
- Sec. 60-116. Sample collection.
- Sec. 60-117. Record keeping.
- Sec. 60-118. Responsibility.
- Sec. 60-119. Vandalism.

Sec. 60-111. Purpose and policy.

(a) This article sets forth requirements for discharge of commercial and industrial wastes to the sewer system of the City of Kansas City. The objectives of this article are:

- (1) To prevent the introduction of pollutants into the sewer system that will interfere with the operation of the sewer system or wastewater treatment facilities or damage the infrastructure or equipment;
- (2) To prevent the introduction of pollutants into the sewer system which will pass through the city's wastewater treatment facilities into receiving waters without adequate treatment or otherwise be incompatible with the sewer system and treatment works;
- (3) To ensure that the quality of the city's wastewater sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- (4) To protect city personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- (5) To improve the opportunity to recycle and reclaim wastewater and sludge from the city's wastewater treatment facilities;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the city's sewer system and wastewater treatment facilities;
- (7) To enable the city to comply with NPDES permit conditions, sludge use and disposal requirements and any other federal, state, or local statutes or regulations laws to which the city is subject;

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- (8) To establish the responsibilities and duties of the users of the sewer system; and
- (9) To establish the authority of the city to enforce the provisions of this article and to enable the city to assess penalties if these provisions are not met.

(b) Notwithstanding any other pretreatment provision to the contrary, nothing contained in this article or elsewhere in the city's pretreatment program shall be deemed to be a legally binding commitment under the Clean Water Act, 33 U.S.C. § 1251 et seq., the Missouri Clean Water Law, RSMo. §§ 644.006 et seq., and applicable regulations (40 CFR Part 403, 10 CSR 20-6.100) for the city to undertake pretreatment implementation or enforcement activities beyond the minimum requirements of said statutes and regulations. Nevertheless, the city maintains its discretionary authority to undertake pretreatment activities beyond the minimum required by said statutes and regulations.

Sec. 60-112. Definitions and rules of construction.

(a) Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Authorized representative of an industrial user means:

- (1) If the industrial user is a corporation, authorized representative shall mean the president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs policy or decision-making functions for the corporation;
- (2) If the industrial user is a partnership or sole proprietorship, authorized representative shall mean a general partner or proprietor, respectively;
- (3) If the industrial user is a federal, state or local governmental facility, authorized representative shall mean a director or the highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or his designee;
- (4) The individuals described in paragraphs a through c above may designate another authorized representative if the authorization is submitted in writing to the director and the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or who has overall responsibility for environmental matters for the industrial user.

Batch means a quantity of wastewater, physically separated from all other quantities of wastewater for the purpose of treatment and/or discharge.

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Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of matter under standard laboratory conditions in five days at 20 degrees centigrade, expressed in milligrams per liter (mg/l).

Building sewer means the extension from the building drain to the city sewer or other place of disposal.

Categorical pretreatment standard or categorical standard means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405—471.

Chemical oxygen demand (COD) means a measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed by a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand (BOD).

City means the City of Kansas City, Missouri.

City sewer means a sewer owned or controlled by the city.

Combined sewer means a sewer receiving both surface runoff and wastewater.

Combined wastestream formula means a method defined in 40 CFR 403.6(e) to derive alternative discharge limits. Such alternative discharge limits may apply where process effluent regulated by any categorical pretreatment standard is mixed prior to treatment with wastewaters other than those generated by the regulated process.

Commercial or industrial wastes means the waterborne wastes from commercial and/or industrial establishments as distinct from sanitary wastewater. This shall not include any discharge to the POTW through an interconnection pursuant to an interjurisdictional agreement as described in division 10 of this article.

Commercial user means industrial user.

Composite sample means a combination of individual samples collected over a designated period of time.

Code of Federal Regulations (CFR) means regulations as issued by the United States Government. References to sections of CFR shall be in accordance with the latest revisions unless specifically stated otherwise.

Code of State Regulations (CSR) means regulations as issued by the Missouri State Government. References to sections of CSR shall be in accordance with the latest revisions unless specifically stated otherwise.

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Daily maximum means an effluent limitation that specifies the total mass or average concentration of pollutants that may be discharged in a calendar day.

Day means a period of normal operation not to exceed 24 hours.

Department means the Pollution Control Department of Kansas City, Missouri.

Director means the director of the pollution control department of the city, or his authorized deputy, agent or representative.

Discharge means material directly or indirectly released to the POTW; or the act of releasing material directly or indirectly to the POTW.

Effluent means the "end of process" liquid wastes from an industrial process which ultimately are discharged.

Environmental Protection Agency (EPA) means the United States Environmental Protection Agency.

Garbage means solid food wastes from the preparation, cooking and disposing of food, together with incidental admixtures, and from the handling, storage and sale of produce.

Grab sample means a sample which is taken on a one-time basis without regard to the flow rate of the sampled stream and without consideration of time.

Hazardous waste means any material, regardless of amount, which would be defined as a hazardous waste under the Missouri Hazardous Waste Management Law, Chapter 260, Environmental Control, sections 260.350 to 260.430 RSMo or the federal Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., or their implementing regulations if it were not discharged to the POTW.

Industrial user means any person discharging pollutants into a POTW from any non-domestic source.

Instantaneous maximum allowable discharge limit means the maximum concentration of a pollutant allowed to be discharged at any time, independent of the discharge rate and duration of the sampling event.

Interference means inhibition or disruption of the POTW, its treatment processes or operations, or its sludge processes, use or disposal which results in violation (including an increase in the magnitude or duration of a violation) of the city's NPDES permit or prevents wastewater sludge use or disposal in compliance with any federal, state or local law, regulation or permit.

Medical waste means isolation wastes, infectious agents, human blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and

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dialysis waste or any other materials or items commonly used or associated with medical care.

Normal sewage means wastewater which contains not over 250 milligrams per liter (mg/l) of suspended solids, not over 250 milligrams per liter (mg/l) of BOD, not over 30 milligrams per liter (mg/l) of oil and grease and which does not contain any of the materials or substances listed in section 60-121 of this article in excess of allowable amounts specified in said section.

NPDES permit means national pollutant discharge elimination system permit issued by the Missouri Department of Natural Resources or EPA.

Oil and grease means any material recovered as a substance soluble in an organic extracting solvent as specified by Standard Method 5520 of "Standard Methods for the Examination of Water and Wastewater," 18th edition, 1992 or the latest revision thereto. Oil and grease is composed primarily of fatty matter from animal and vegetable sources and from hydrocarbons of petroleum origin. The concentration of oil and grease of petroleum hydrocarbon origin can be determined using Standard Method 5520F. The concentration of oil and grease of animal and vegetable origin is hereby defined as the difference between the total and the petroleum hydrocarbon oil and grease concentrations.

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

Pass through means a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation, caused by a discharge or combination of discharges.

Person means any individual, partnership, co-partnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government, or any other legal entity whatever, which is recognized by law as the subject of rights and duties or their legal representatives, agents or assigns.

Pollutant means anything discharged into the POTW which causes any alteration of chemical, physical, biological, or radiological integrity of water including, but not limited to 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 means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other

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means, but not by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard or requirement.

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

Pretreatment standard means any regulation which applies to industrial users and contains pollutant discharge limits promulgated by EPA in accordance with the Act. This term includes prohibitive discharge limits pursuant to 40 CFR 403.5.

Properly shredded garbage means garbage that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in the city sewers, with no particle greater than one-half inch in any dimension.

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

Receiving stream means any natural watercourse into which treated or untreated wastewater is discharged.

Sanitary wastewater means those wastes which are comparable to wastes which originate in residential units and contain only human excrement and wastes from kitchen, laundry, bathing and other household facilities.

Sanitary sewer means a sewer which carries wastewater and to which storm, surface and ground waters are not normally admitted.

Sewer means a pipe or a conduit for carrying wastewater.

Significant industrial user means any industrial user which:

- (1) Is subject to categorical pretreatment standards; or
- (2) Purchases, uses, or discharges an average of 25,000 gallons per day or more of water; or
- (3) Discharges a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the wastewater treatment plant serving the said industrial user; or
- (4) Accepts waste from another location outside the facility's boundaries for treatment, storage or disposal; or

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- (5) Is designated as significant by the director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operations, for violating this article or for violating pretreatment standards or requirements.

Slug discharge means any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary discharge with any pollutant released at a flow rate and/or concentration which has a reasonable potential to cause interference, pass-through, or violation of the criteria or applicable discharge standards of this Chapter.

Standard laboratory methods means sampling and analytical techniques promulgated by EPA in 40 CFR Part 136.

State means the State of Missouri, including its agencies, and specifically the department of natural resources.

Storm sewer, storm drain means a sewer which normally carries only storm and surface waters and drainage.

Stormwater means any flow resulting from any form of natural precipitation including stormwater runoff, snowmelt runoff, surface runoff, and drainage.

Suspended solids (nonfilterable residue) means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering.

Toxic pollutants means those substances listed in regulations promulgated by EPA under the provisions of Section 307 (33 USC 1317) of the Act.

User means any person who discharges, causes or permits discharge into the city's POTW.

Waste treatment facility means any commercial facility accepting industrial wastes from another location outside the facility's boundaries for treatment, storage or disposal.

Wastewater or sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present, whether treated or untreated.

Wastewater treatment plant (WWTP) or treatment plant means the portion of the POTW designed to provide treatment of wastewater.

(b) Rules of construction. Unless the context specifically indicates otherwise, the construction of terms used in this article shall be as follows:

- (1) "Shall" is mandatory; "may" is permissive or discretionary.

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(2) The singular shall be construed to include the plural and the plural shall include the singular as indicated by the context.

(3) The masculine shall be construed to include the feminine.

Sec. 60-113. Abbreviations.

For the purposes of this article the following abbreviations shall have the designated meanings:

BOD—Biochemical Oxygen Demand.

ccf—Hundred cubic feet.

CFR—Code of Federal Regulations.

COD—Chemical oxygen demand.

CSR—Missouri Code of State Regulations.

EPA—United States Environmental Protection Agency.

GPD—Gallons per day.

l—Liter.

mg—Milligrams.

mg/l—Milligrams per liter.

NPDES—National pollutant discharge elimination system.

O&M—Operation and maintenance.

PCBs—Polychlorinated biphenyls.

POTW—Publicly owned treatment works.

RCRA—Federal Resource Conservation and Recovery Act.

TTOs—Total toxic organics.

TSS—Total suspended solids.

USC—United States Code.

ug—Micrograms.

ug/l—Micrograms per liter.

WWTP—Wastewater treatment plant.

Sec. 60-114. Administration.

Except as otherwise provided herein, the director is authorized to administer, implement and enforce the provisions of this article. The director may delegate to the director's authorized representatives or agents any powers granted to or duties imposed upon him, unless specifically provided otherwise herein.

Sec. 60-115. - Analytical requirements.

All pollutant analyses, including sampling techniques, submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the sampling and analytical techniques in 40 CFR Part 136 are inappropriate for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

Sec. 60-116. Sample collection.

(a) Except as indicated in subsection (b) of this section, industrial users shall collect wastewater samples using flow proportional composite collection techniques unless the director determines that such techniques are infeasible or inappropriate. In such cases, the director may authorize the use of other collection techniques which will provide a representative sample of the effluent or discharge. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic compounds shall be obtained using grab sample collection techniques.

(c) All wastewater samples shall be representative of the industrial user's effluent or 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 an industrial user to keep its monitoring facility or facilities clean and in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge or effluent.

Sec. 60-117. Record keeping.

(a) Industrial users shall make available for inspection and copying by the director all records and information required by the director or by provisions of this article.

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(b) Industrial users shall maintain records of all information resulting from any sampling or monitoring required pursuant to this article, including time, date, place and method of sampling and analysis, personnel involved and the results of such activities, material safety data sheets, incoming hazardous waste manifests, outgoing hazardous waste manifests, analytical reports, production records, purchase records, reports submitted to regulatory agencies, and other related records, for a period of at least three years.

(c) The period for maintaining records shall be automatically extended for the duration of any litigation concerning compliance with this article, or where an industrial user has been specifically notified of a longer retention period by the director.

Sec. 60-118. Responsibility.

Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, and such tenant is an industrial user, either the tenant or the owner or both may be held responsible for compliance with the provisions of this article.

Sec. 60-119. Vandalism.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in sections 60-180 through 60-189 of this article.

DIVISION 2. - GENERAL SEWER USE REQUIREMENTS

- Sec. 60-120. General sewer use requirements.
- Sec. 60-121. Wastes prohibited in sewers.
- Sec. 60-122. Additional limitations.
- Sec. 60-123. Dilution.
- Sec. 60-124. Compatibility studies.
- Sec. 60-125. Hauled waste.
- Sec. 60-126. Accidental/slug discharge control plans.
- Sec. 60-127. Monitoring facilities.
- Sec. 60-128. Reserved.
- Sec. 60-129. Reserved.

Sec. 60-120. General sewer use requirements.

This division sets forth wastes which are generally unacceptable for discharge to the POTW, requirements for discharge of hauled wastes, requirements for accidental discharge/slug control plans and requirements for wastewater discharge monitoring facilities.

Sec. 60-121. Wastes prohibited in sewers.

No person shall cause, permit, or allow discharge to the POTW of the following materials, substances, or wastes:

- (1) Any solid, liquid or gas which by reason of its nature and/or quantity creates a fire or explosive hazard in the POTW including, but not limited to, wastestreams with a closed cup flashpoint less than or equal to 150 degrees Fahrenheit using the test method specified in 40 CFR 261.21.
- (2) Any wastewater having a pH less than 6.0 or greater than 11.0.
- (3) Any garbage except properly shredded garbage.
- (4) Any solid or viscous materials in amounts or concentrations which cause obstruction of the flow in the POTW, or solids greater than one-half inch in any dimension. Examples of such materials include, but are not limited to, ashes, wax, paraffin, cinders, sand, mud, straw, shavings, metal, glass, rags, lint, feathers, tars, plastics, wood and sawdust, grass clippings, paunch manure, hair and fleshings, entrails, lime slurries, beer and distillery slops, grain processing wastes, grinding compounds, acetylene generation sludge, chemical residues, asphalt residues, acid residues, residues from refining or processing fuel or lubricating oil, and food processing bulk solids.
- (5) Any oil and grease of animal or vegetable origin in excess of 150 mg/l.
- (6) Any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (7) Any corrosive, noxious or malodorous material or substance which, either singly or by reaction with other wastes, is capable of causing damage to the POTW or creating a public nuisance or hazard, or preventing entry into the POTW's facilities for maintenance and repair.
- (8) Any concentrated dyes or other materials which are either highly colored or could become highly colored by reacting with other discharges.
- (9) Any material or substance not specifically mentioned in this section which is in itself corrosive, irritating to human beings or animals, toxic or noxious, or which by interaction with other wastes could produce undesirable effects, including deleterious action on the POTW's facilities or operations, hazards to humans or animals, or adverse effect(s) upon the receiving stream.
- (10) Any sludges, screenings, or other residues from the pretreatment of industrial wastes.

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- (11) Any medical wastes, except as specifically authorized by the director.
- (12) Any wastewater having a temperature greater than 150 degrees Fahrenheit or which will inhibit biological activity in the POTW or which will cause the temperature at the treatment plant influent to exceed 104 degrees Fahrenheit.
- (13) Any septic tank sludge or any other trucked or hauled pollutants, except at discharge points designated by the director in accordance with section 60-125
- (14) Any wastewater containing any radioactive waste or isotopes except as specifically approved by the director in compliance with applicable state and federal statutes and regulations.
- (15) Any storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, or unpolluted industrial wastewater unless authorized by the director.
- (16) Any material or combination of materials which results in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause worker health and/or safety problems.
- (17) Any discharge containing detergents, surface active agents, or other substances which cause excessive foaming in the POTW.
- (18) Any discharge which alone or in combination with other discharges causes pass through or interference. A discharge may not be considered to have caused pass through or interference if it was otherwise in compliance with this article and any wastewater discharge permit issued hereunder.
- (19) Any discharge which contains any of the following substances in excess of the following daily maximum and/or instantaneous maximum total concentrations. These restrictions apply at the point where the wastewater is discharged to the POTW:

Arsenic* 1.80 mg/l
Benzene 0.50 mg/l
Cadmium* 1.00 mg/l
Chromium* 5.00 mg/l
Copper* 5.10 mg/l
Cyanide* 2.00 mg/l
Ethylbenzene 1.00 mg/l
Lead* 5.00 mg/l
Mercury* 0.05 mg/l
Nickel* 20.00 mg/l
Phenols 5.00 mg/l

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Silver* 5.00 mg/l
Toluene 1.00 mg/l
Xylene 1.00 mg/l
Zinc 10.10 mg/l
PCB's 0.01 mg/l

Total toxic organics (TTOs) as defined by 40 CFR 433.11(e) shall not exceed 5.0 mg/l at any time.

*All other provisions of this article notwithstanding, no industrial user shall discharge this pollutant in an amount exceeding five percent of the average daily loading (in pounds per day) of this pollutant at the receiving WWTP without the express written consent of the director.

- (20) Any discharge or effluent which violates the limitations imposed by a wastewater discharge permit issued under the provisions of this article, or categorical standard, including equivalent concentration limits based on a mass or production-based categorical standard and concentration limits derived in accordance with the combined wastestream formula.

Sec. 60-122. Additional limitations.

When necessary to protect or to prevent adverse effects on the POTW, its treatment processes, receiving stream, sludge treatment or disposal processes, to provide for worker health and safety, to impose categorical standards, or to address similar concerns of other jurisdictions providing sewer service to the city, the director may:

- (1) Impose mass limitations in addition to or in place of concentration limitations provided for in this article or in any applicable categorical pretreatment standards;
- (2) Establish more stringent standards or requirements for discharge to the POTW in wastewater discharge permits;
- (3) Establish limits on the effluent from specific industrial processes or pretreatment systems in wastewater discharge permits;
- (4) Issue wastewater discharge permits to industrial users setting out special requirements for discharge to the POTW. In no case shall a permit waive compliance with a categorical pretreatment standard or allow any discharge which could cause pass through or interference, except that the director may establish a reasonable time frame for compliance with this article;
- (5) Require treatment to reduce the BOD, suspended solids, and/or oil and grease concentrations in a discharge to levels more closely approaching those of normal sewage; and/or

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- (6) Establish additional temporary standards for substances not specifically mentioned in section 60-121. Such temporary standards shall be effective for a period not to exceed 120 days.

Sec. 60-123. Dilution.

No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard unless expressly authorized by applicable law.

Sec. 60-124. Compatibility studies.

The director may require any industrial user to undertake a compatibility study for waste proposed for discharge to the POTW to determine whether the waste may be accepted by the POTW.

Sec. 60-125. Hauled waste.

(a) The department may provide treatment and disposal services for hauled wastes, including septic tank sludge, contents of cesspools and privy vaults, and other nonhazardous wastes generated in Kansas City, Missouri or the metropolitan area. The director shall have the authority to determine:

- (1) Whether the wastes are compatible with treatment plant operations and to approve or deny the discharge of wastes to the POTW;
- (2) The location, method and allowable times for discharge of such wastes to the POTW;
- (3) Requirements for documentation of the origin, type, and characteristics of all hauled wastes discharged to the POTW.

(b) Waste haulers using the treatment and disposal services of the department shall be in compliance with all applicable bonding and licensing requirements imposed by the city and the state and shall comply with the determinations made by the director under subsection (a) of this section.

(c) Hauled wastes must comply with all applicable requirements, including those in any applicable pretreatment standard and any established by or pursuant to sections 60-121 and 60-122 of this article.

(d) The director shall have authority to establish and collect fees for the reception and treatment of hauled wastes and to publish said fees as set forth by division 9 of this article.

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(e) The director shall have the authority to suspend or terminate treatment and disposal services provided to a waste hauler for violations of rules and regulations applicable to waste haulers promulgated pursuant to section 60-162

Sec. 60-126. Accidental/slug discharge control plans.

(a) The director may require reasonable safeguards to prevent discharge or leakage of any material stored in areas served by, or draining into, the POTW which could create a fire or an explosion hazard in the POTW or in any other way have a deleterious effect upon the POTW's facilities or treatment processes, or constitute a hazard to human beings or animals or the receiving stream.

(b) The director may require any industrial user to develop and implement an accidental/slug discharge control plan. This plan shall, in addition to satisfying the requirements under 40 CFR 403.8, include at least the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description and location of stored chemicals;
- (3) Procedures for immediately notifying the POTW of any accidental or slug discharge or any discharge which violates section 60-121 of this article and for providing a written report of such discharge within five days of its occurrence. Such report shall be submitted in accordance with section 60-157 of this article;
- (4) Procedures for permanently posting a notice in a conspicuous place in a common area of the industrial user's premises advising employees whom to call in the event of a discharge described in subsection (a) of this section. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure; and
- (5) 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, measures for containing materials, and/or measures and equipment for emergency responses.

Sec. 60-127. Monitoring facilities.

The director may require the owner of any property occupied by an industrial user to install and maintain at his own expense suitable monitoring facilities to facilitate the city's and the industrial user's observation, sampling and measurement of the discharge of the building sewer and/or internal drainage systems and/or effluent from specific processes.

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Such facilities shall be easily accessible and safely located, and shall have ample room in or near said facilities to allow accurate collection and preparation of samples for analysis. Such facilities shall be constructed in accordance with plans approved by the director, and shall be located so as to permit the gauging of flow and the collection of samples truly representing the effluent from regulated processes or the discharge from the property.

The facilities, and the sampling and measuring equipment shall be maintained at all times in a safe and proper condition at the expense of the industrial user.

Sec. 60-128. Reserved.

Sec. 60-129. Reserved.

DIVISION 3. - PRETREATMENT OF WASTEWATER

Sec. 60-130. Pretreatment of waste water.

Sec. 60-131. Pretreatment facilities.

Sec. 60-132. Additional pretreatment measures.

Secs. 60-133—60-139. Reserved.

Sec. 60-130. Pretreatment of wastewater.

Industrial users are responsible for the content of their discharges and shall provide pretreatment of said discharges as required by this article.

Sec. 60-131. Pretreatment facilities.

An industrial user shall provide wastewater pretreatment as required to comply with this article and with all other pretreatment standards and shall achieve compliance within the time limitation specified by EPA, the state, or the director, whichever is more stringent. Any facilities required to pretreat wastewater to achieve compliance with a pretreatment standard shall do so at the industrial user's sole expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the director for review. The review of such plans and operating procedures shall in no way relieve the industrial user from responsibility for modifying the facility as necessary to produce a discharge which complies with applicable pretreatment standards.

Sec. 60-132. Additional pretreatment measures.

(a) Whenever deemed necessary, the director may require an industrial user to restrict its discharge during peak flow periods, to discharge certain wastewaters only into specific sewers, to relocate and/or consolidate points of discharge, to separate sanitary wastewater from industrial wastestreams, and to perform and maintain such other conditions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this article.

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(b) When deemed necessary to protect the POTW, worker health and safety or otherwise prevent interference or pass through, the director may require an industrial user to maintain, at its facility and at its expense, a suitable storage and flow control facility to ensure equalization of flow over a 24-hour period. Such facility shall have a capacity for at least 150 percent of the daily discharge volume and shall be equipped with alarms and a discharge rate controller, the regulation of which shall be specified by the director. A wastewater discharge permit may be issued solely to require flow equalization.

(c) Oil, grease and grit interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of oil and grease, or grit; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the director and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the industrial user at its expense.

(d) Any person who may discharge wastes which are unusual in composition, including, but not limited to, those wastes that contain an extremely large amount of suspended solids or BOD, high concentrations of dissolved solids such as sodium chloride, calcium chloride, or sodium sulfate, or contain substances conducive to creating tastes or odors in drinking water supplies or could otherwise cause such waters to be unpalatable even after conventional water purification treatment, or wastes which are in any other way unusual, shall notify the director who may determine whether such wastes shall be prohibited from or may be admitted to the POTW or shall be pretreated before being discharged.

Secs. 60-133—60-139. Reserved.

DIVISION 4. - WASTEWATER DISCHARGE PERMITS

- Sec. 60-140. Wastewater discharge permits; generally
- Sec. 60-141. Wastewater discharge permit application contents.
- Sec. 60-142. Application signatories and certification.
- Sec. 60-143. Wastewater discharge permit contents.
- Sec. 60-144. Authority to enforce permit violations.
- Sec. 60-145. Wastewater discharge permit appeals.
- Sec. 60-146. Wastewater discharge permit modification.
- Sec. 60-147. Wastewater discharge permit denial/revocation.
- Secs. 60-148, 60-149. Reserved.

Sec. 60-140. Wastewater discharge permits; generally.

(a) The director may issue, deny, modify or revoke a wastewater discharge permit as described herein. Such actions may be appealed as described herein.

(b) Any new industrial user which will be a significant industrial user shall apply for and shall obtain a wastewater discharge permit prior to discharging to the POTW

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except as otherwise described in subsection (h) of this section. Such application shall be submitted to the director 120 days prior to any proposed discharge.

(c) Any significant industrial user which significantly alters or adds to its operation, processes, or wastewater volume or character shall apply for and shall obtain a new permit prior to making the alteration. Such application shall be submitted to the director 60 days prior to any alteration in discharge. This 60-day notice may be waived by the director for alterations which reduce the total quantity of wastewater or pollutants discharged.

(d) Any existing industrial user which becomes a significant industrial user due to any increase or change in the industrial user's contribution of pollutants to the POTW or due to the enactment or revision of this article or promulgation or revision of a categorical standard shall submit a wastewater discharge permit application within 120 days after the effective date of this article or within 120 days after the date it becomes a significant industrial user, whichever is later.

(e) Any violation of wastewater discharge permit requirements or conditions shall be a violation of this article. Compliance with a wastewater discharge permit does not relieve the permittee of responsibility for compliance with this article, with all applicable federal and state pretreatment standards and requirements, or with any other requirements of federal, state or local statutes or regulations.

(f) No significant industrial user shall:

- (1) Discharge anything into the POTW without having first obtained a valid wastewater discharge permit; or
- (2) Discharge anything into the POTW when its wastewater discharge permit has been suspended, revoked, or has expired; or
- (3) Discharge anything into the POTW in excess of or in contravention of the provisions of its wastewater discharge permit.

(g) Any existing facility which has complied with subsection (c) of this section shall be exempt from the requirements of subsection (f) of this section pending the director's decision on the issuance of a permit.

(h) Upon finding that an industrial user, who is not subject to categorical pretreatment standards but otherwise meets the criteria for being a significant industrial user has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard, the director may at any time determine that such industrial user is not a significant industrial user.

(i) Director may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this article.

Sec. 60-141. Wastewater discharge permit application contents.

(a) In order to be considered for a wastewater discharge permit, the director may require an industrial user to submit, in units and terms appropriate for evaluation, an application containing:

- (1) Name, address and discharge location (if different from the address).
- (2) A description of activities, facilities, and plant processes on the premises, including 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) The number of employees and hours of operation;
- (4) A list of each product produced by type, amount, process or processes, and rate of production;
- (5) The type and amount of raw materials processed (average and maximum per day);
- (6) The 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;
- (7) The time, duration, and flow rate of the discharge;
- (8) The nature and concentration of any pollutants in the discharge which are limited by pretreatment standards or pretreatment requirements, and a statement regarding whether or not the pretreatment standards or pretreatment requirements are being met on a consistent basis, and if not, whether additional operation and maintenance and/or additional pretreatment is required for the significant industrial user to meet said pretreatment standards or pretreatment requirements;
- (9) Any environmental control permits held by or for the facility; and
- (10) Such additional information as deemed necessary or appropriate by the director to evaluate, clarify, modify or supplement the originally submitted wastewater discharge permit application.

(b) All industrial users subject to categorical pretreatment standards must submit a baseline monitoring report as described in section 60-152 of this article.

(c) Any industrial user desiring, or required by the director, to use the combined wastestream formula as described in 40 CFR 403.6(e) to establish applicable discharge requirements shall submit the necessary information and calculations to support the use of the formula.

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(d) Failure by an industrial user to provide any information required by or in accordance with this section may result in denial or revocation of a permit.

Sec. 60-142. Application signatories and certification.

(a) All wastewater discharge permit applications must contain the certification statement as described in section 60-160 and be signed by the authorized representative of the industrial user.

(b) All wastewater discharge permit applications must contain the appropriately signed and certified "designation of authorized representative" form.

Sec. 60-143. Wastewater discharge permit contents.

(a) Wastewater discharge permits may include such conditions as are reasonably deemed necessary by the director to prevent pass through or interference, protect the water quality of the receiving stream, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality of the POTW, or protect against damage to the POTW.

(b) Wastewater discharge permits may contain, but need not be limited to, the following conditions and may contain a schedule for compliance with said conditions:

- (1) A statement of the wastewater discharge permit duration, which in no event shall exceed five years;
- (2) A statement that the wastewater discharge permit is not transferable;
- (3) Discharge and/or effluent limits applicable to the permittee and the permittee's processes, based on applicable standards in federal, state, or local laws and regulations and interjurisdictional agreements;
- (4) Self-monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include parameters to be monitored, sampling location, sampling frequency, and sample type based on federal, state, or local statutes or regulations and/or interjurisdictional agreements. These requirements may also include provisions for increased self-monitoring activities in the event of violations;
- (5) A statement of applicable civil, criminal, and administrative penalties for violation of discharge or effluent standards and requirements, and any applicable compliance schedule;
- (6) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

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- (7) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;
- (8) Requirements for the installation of pretreatment technology or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;
- (9) Requirements for development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- (10) Requirements for development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (11) The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the POTW;
- (12) Requirements for installation and maintenance of inspection, monitoring and sampling facilities and equipment;
- (13) Requirements for periodic submittal of all incoming and outgoing hazardous waste manifests;
- (14) Other conditions as deemed appropriate by the director to ensure compliance with this article, and state and federal laws, rules, and regulations.

Sec. 60-144. Authority to enforce permit violations.

Wastewater discharge permit conditions are specifically and independently enforceable regardless of whether they are expressly required by or set out in this article. Enforcement shall be in accordance with the provisions, penalties, and other requirements of this article and all other applicable laws and regulations.

Sec. 60-145. Wastewater discharge permit appeals.

(a) The permit applicant or permittee may petition the director to reconsider a wastewater discharge permit denial or revocation or the terms of a wastewater discharge permit or a wastewater discharge permit modification within 30 days of the denial, issuance, revocation or modification of a permit.

(b) If the applicant or permittee does not submit a timely petition for reconsideration the director's permit decision shall be final.

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(c) In its petition, the petitioner must indicate the reasons it believes the director's decision was in error and specify the wastewater discharge permit conditions to which it objects.

(d) The effectiveness of the wastewater discharge permit decision shall not be stayed pending the appeal.

(e) If the director fails to act within 30 days, a request for reconsideration shall be deemed to be denied.

Sec. 60-146. Wastewater discharge permit modification.

(a) The director may modify a wastewater discharge permit for good cause including, but not limited to, the following:

- (1) To incorporate any new or revised federal, state, or local pretreatment standard or monitoring requirement;
- (2) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the POTW, city personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit or this article;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of categorical pretreatment standards;
- (8) To correct typographical or other errors in the wastewater discharge permit.

(b) The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

Sec. 60-147. Wastewater discharge permit denial/revocation.

(a) A permit may be revoked at any time upon giving the permittee at least 30 days written notice. However, in cases where a permittee's discharge is an imminent threat to health and safety or caused interference or pass through, the permit may be revoked without notice.

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(b) Wastewater discharge permits may be denied or revoked for the following reasons:

- (1) Failure to notify the director of significant changes to the discharge prior to such changes;
- (2) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (3) Falsifying self-monitoring reports;
- (4) Tampering with monitoring equipment;
- (5) Refusing to allow the director timely access to the facility premises and records;
- (6) Failure to meet effluent limitations;
- (7) Failure to pay fines;
- (8) Failure to pay sewer charges and/or permit fees;
- (9) Failure to meet compliance schedules;
- (10) Failure to complete a requested wastewater survey;
- (11) Failure to submit required reports or information;
- (12) Violation of any pretreatment standard, this article, or any terms of a wastewater discharge permit.

Secs. 60-148, 60-149. Reserved.

DIVISION 5. - REPORTING REQUIREMENTS

Sec. 60-150. Reporting requirements.

Sec. 60-151. Wastewater survey.

Sec. 60-152. Baseline monitoring reports.

Sec. 60-153. Compliance schedule and related reports.

Sec. 60-154. Report on compliance with categorical pretreatment standard deadline (90-day report).

Sec. 60-155. Periodic compliance reports.

Sec. 60-156. Report of changed conditions.

Sec. 60-157. Reports of potential problems.

Sec. 60-158. Hazardous waste discharge reporting.

Sec. 60-159. Reporting and repeat sampling requirements in case of a violation.

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- Sec. 60-160. Signatories and certification.
- Sec. 60-161. Reports from nonsignificant industrial users.
- Sec. 60-162. Promulgation of rules and regulations.
- Sec. 60-163. Timing of reports.
- Secs. 60-164—60-169. Reserved.

Sec. 60-150. Reporting requirements.

Industrial users shall prepare and submit such reports as are required by this article and 40 CFR 403.12. Such reports shall be filed in the office of the director unless otherwise provided.

Sec. 60-151. Wastewater survey.

All new industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing discharge. Existing industrial users shall submit a wastewater survey when requested to do so by the director. The director is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to comply with this section shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this article.

Sec. 60-152. Baseline monitoring reports.

When required by the director, by section 60-141 or by 40 CFR 403.12, Industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the following information:

- (1) Identifying information. The name and address of the facility, including the name of the operator and owners and the name and title of the authorized representative.
- (2) Environmental control permits. A list of any environmental control or wastewater discharge permits or authorizations held by or for the facility.
- (3) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by the industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from regulated processes, and storage areas for raw materials and hazardous waste.
- (4) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated processes and other sources as necessary to allow use of the combined wastestream formula.

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- (5) Measurement of pollutants.
 - a. The categorical pretreatment standards applicable to each regulated process.
 - b. The results of sampling and analysis identifying the concentration of each regulated pollutant in the effluent from each regulated process. Where required by the pretreatment standard or the director, the mass of each regulated pollutant in the effluent from each regulated process and the production rate of each regulated process shall also be reported. Samples shall be representative of daily operations and shall be collected and analyzed in accordance with procedures set forth in 40 CFR Part 136 and shall be collected in such number and otherwise in accordance with 40 CFR 403.12(b)(v). The industrial user shall provide estimates of the anticipated flow and quantity of pollutants where actual data cannot be obtained.
 - c. The time, date and place of sampling shall be reported for each sample.
- (6) Certification. A statement by the industrial user's authorized representative certifying that the sampling results submitted are representative of normal work cycles and expected effluents and indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements. An industrial user which has not begun discharge to the POTW shall include a description of any pretreatment process or processes it intends to use to meet applicable pretreatment standards.
- (7) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the industrial user shall report the shortest schedule for providing such additional pretreatment and/or O&M. 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 section 60-153 of this article.
- (8) Signatory requirements. All baseline monitoring reports must be signed and certified in accordance with section 60-160

Sec. 60-153. Compliance schedule and related reports.

Any compliance schedule required by section 60-152 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 industrial user to meet the applicable pretreatment standards (such events may include

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hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No such progress increment shall exceed nine months. The industrial user shall submit a progress report to the director no later than 14 days following each date in the compliance 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 industrial user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to director.

Sec. 60-154. Report on compliance with categorical pretreatment standard deadline (90-day report).

Within 90 days following the date for final compliance with an applicable categorical pretreatment standard, or, in the case of a new facility or an existing facility which has altered or added to its operation, processes, or wastewater volume or character in a manner which causes it to become subject to said categorical pretreatment standard, within 90 days of commencing discharge from such new facility or process, any industrial user subject to such pretreatment standard shall submit to the director a report containing the information described in sections 60-152(a)(4)—(7) and 60-153. For industrial users subject to equivalent mass or concentration limits, this report shall contain a reasonable measure of the industrial user's long term production rate. For industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. This report must be signed and certified in accordance with section 60-160.

Sec. 60-155. Periodic compliance reports.

(a) Any significant industrial user shall, at a frequency determined by the director but in no case less than every six months, submit a report indicating the concentration in its effluent and/or discharge of all pollutants which are limited by such pretreatment standards and/or pretreatment requirements, and the measured or estimated average and maximum daily flows for the reporting period. Where required by the pretreatment standard or the director, the significant industrial user shall also report the mass of each regulated pollutant in the discharge and/or in the effluent from each regulated process and the production rate of each regulated process. This report must be signed and certified in accordance with section 60-160

(b) All wastewater samples must be collected in accordance with section 60-116

(c) If a significant industrial user monitors any pollutant more frequently than required by the director, the results of this monitoring shall be included in the report.

Sec. 60-156. Report of changed conditions.

(a) Each industrial user shall notify the director of any planned significant changes to the industrial user's operations or systems which may alter the nature, quality

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or volume of its wastewater at least 60 days before the change. The industrial user shall submit such information as may be deemed necessary by the director to evaluate the changed condition, including a wastewater discharge permit application.

(b) The director shall respond to said notice within 60 days. He may issue a wastewater discharge permit or modify an existing wastewater discharge permit in response to this notice. No industrial user shall implement the planned changed condition(s) until and unless the director has responded to the industrial user's notice.

(c) For purposes of this requirement, flow increases of more than ten percent or the discharge of any previously unreported pollutant shall be deemed significant changes.

Sec. 60-157. Reports of potential problems.

(a) Any industrial user which has an accidental discharge, a discharge of a nonroutine, episodic nature, a non-customary batch discharge, or a slug discharge which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in section 60-121 of this article), shall immediately telephone and notify the director of the incident. This notification shall include the location of discharge, source, material(s) involved, concentration and volume, if known, and corrective actions taken by the industrial user.

(b) Within five days following such discharge, the industrial user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this article.

(c) Each failure to notify the director of a discharge described in subsection (a) of this section shall be deemed a separate violation of this article.

Sec. 60-158. Hazardous waste discharge reporting.

All industrial users shall report to the director any discharge into the POTW of a substance which, if otherwise disposed of; would be defined as a hazardous waste. Such report must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). The report shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the waste(s), an estimation of the mass and concentration of such constituents in the wastestream discharged during each calendar month of that reporting period, and an estimation of the mass of such constituents in the wastestream expected to be discharged during the following 12 calendar months.

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Such hazardous waste discharge report shall be made a part of every periodic compliance report for significant industrial users and shall be submitted every six months for all other industrial users. The reporting requirements in this section do not apply to individual pollutants already reported under the self-monitoring requirements of a wastewater discharge permit issued pursuant to this article. In the case of any report required by this section, the industrial 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.

Sec. 60-159. Reporting and repeat sampling requirements in case of a violation.

If sampling performed by an industrial user indicates a violation of the effluent and/or discharge limitations provided in this article and/or in the industrial user's wastewater discharge permit, the industrial user must notify the director within 24 hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat sampling and analysis to the director within 30 days after becoming aware of the violation.

Sec. 60-160. Signatories and certification.

All reports and applications submitted pursuant to the requirements of this article must contain the following certification statement and be signed by the authorized representative of the industrial user.

"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."

Sec. 60-161. Reports from nonsignificant industrial users.

All industrial users which are not significant industrial users shall provide appropriate reports to the director as required by the director.

Sec. 60-162. Promulgation of rules and regulations.

The director shall be authorized to promulgate rules and regulations as may be necessary for affecting the purposes of and which are not inconsistent with the provisions of this article.

Sec. 60-163. Timing of reports.

Written reports shall be deemed to have been submitted on the date endorsed by the United States Post Office (USPO). For reports which do not contain a USPO endorsement on the envelope or container, the date of receipt of the report shall govern.

Secs. 60-164—60-169. Reserved.

DIVISION 6. – RESERVED

DIVISION 7. - MONITORING AND INSPECTION

Sec. 60-170. Monitoring, inspection and sampling.

Sec. 60-171. Right of entry; search warrants.

Sec. 60-172. Determination of noncompliance.

Secs. 60-173—60-179. Reserved.

Sec. 60-170. Monitoring, inspection and sampling.

(a) The director shall cause periodic inspections to be made of premises to secure compliance with the requirements of this article.

(b) The director shall have the right to collect samples from any point in industrial user's processes, and of any chemicals or hazardous waste stored at the industrial user's facility.

(c) The director shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the industrial user's discharge.

(d) The director may require the industrial user to install sampling and monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.

Sec. 60-171. Right of entry; search warrants.

(a) Whenever necessary to make an inspection, to collect samples, or to enforce any of the provisions of this article or whenever the director or the director's authorized representative has reasonable cause to believe that there exists justification to undertake such activities, the director or the director's representative may enter a facility at any reasonable time to inspect the same or to perform any duty imposed upon the director by this article.

(b) No person shall refuse the director or his representative access to the industrial user's premises or shall cause unreasonable delay in such access.

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(c) If no consent has been given to enter or inspect any facility, no entry or inspection shall be made without the procurement of a warrant from a judge of a court of competent jurisdiction. The director or the director's authorized representative, any police officer, deputy, or assistant city attorney of the city, may file a written complaint with a judge of a court of competent jurisdiction, stating that he has probable cause to believe there exists a violation or violations of the provisions of this article or any wastewater discharge permit issued hereunder at a facility particularly described in the complaint. If such complaint is verified by oath or affirmation stating evidential facts from which such judge determines the existence of probable cause, such judge shall issue a search warrant directed to the authorized person to search the facility described in the complaint for the purposes requested. Such search warrant may be executed and returned only within 15 days after the date of its issuance. The person authorized to search shall make a return promptly after concluding the search, and such return shall contain an itemization of all violations of this article discovered pursuant to such search.

The court may consider any of the following factors along with such other matters as it deems pertinent in its decision as to whether a warrant shall be issued:

- (1) Eye witness account of violation.
- (2) Citizen complaint.
- (3) Tenant's complaint.
- (4) Plain view violations.
- (5) Violations apparent from city records.
- (6) Nature of alleged violation, the threat to life, safety and imminent risk of harm to the POTW or the environment.
- (7) Passage of time since last inspection.
- (8) Previous violations at the facility.

Sec. 60-172. Determination of noncompliance.

The director may use a grab sample(s) when appropriate to determine noncompliance with this article.

Secs. 60-173—60-179. Reserved.

DIVISION 8. - VIOLATIONS AND PENALTIES

Sec. 60-180. Violations and penalties.

Sec. 60-181. Publication of industrial users in significant noncompliance.

Sec. 60-182. Injunctive relief.

Sec. 60-183. Civil penalties.

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- Sec. 60-184. Criminal penalties.
- Sec. 60-185. Liability for expenses.
- Sec. 60-186. Termination of service.
- Sec. 60-187. Show cause hearing.
- Sec. 60-188. Emergency suspensions.
- Sec. 60-189. Remedies nonexclusive.

Sec. 60-180. Violations and penalties.

Any person who violates any requirement of this article shall be subject to penalties as described herein.

Sec. 60-181. Publication of industrial users in significant noncompliance.

The director shall publish annually, in the largest daily newspaper published in Kansas City, Missouri, a list of the industrial users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean one or more of the following:

- (1) Chronic violations of pretreatment standards, defined here as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same parameter by any amount;
- (2) Technical-review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria. The criteria for fats, oils and grease is 1.4. For all other parameters except pH, the criteria is 1.2;
- (3) Any other discharge violation that the director believes has caused, or has the potential to cause, alone or in combination with other discharges, interference or pass through, or to endanger the health or welfare of city personnel or the general public;
- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or an enforcement order for starting construction, completing construction, or attaining final compliance;

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- (6) Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance.

Sec. 60-182. Injunctive relief.

If any person or industrial user violates the provisions of this article or any order of the director, the city attorney may commence an action for legal or equitable relief in any court with appropriate jurisdiction.

Sec. 60-183. Suit additional to other remedies.

(a) In addition to any and all remedies provided in the Charter and this chapter, the city shall have the power to bring suit against any person who has violated an order of the director or who has failed to comply with any provisions of this article, and the orders, rules, regulations and permits issued hereunder, to seek a civil penalty of not less than \$1,000.00 but not more than \$5,000.00 per day per violation. In addition to the civil penalty imposed herein, the City shall be entitled to an award for the damage (including restoration) caused by said violation or failure to comply. Each calendar day in which a violation continues shall be considered a separate offense subject to the penalty provided herein.

(b) Ten percent of the amount of the judgment shall be added as attorney's fees in every proceeding brought under this chapter, to be added and collected in the same manner as other costs in the case.

(c) In addition to the penalties, damages, and attorney's fees provided herein, the city may recover, court costs, court reporters' fees and other expenses of litigation against the person found to have violated this article or the orders, rules, regulations and permits issued hereunder.

Sec. 60-184. Ordinance Violation.

Any person or industrial user who violates any provision of this article, any orders or wastewater discharge permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a violation of this article, and shall be subject to a fine of not less than \$1,000.00 but not more than \$5,000.00 per day per violation or by imprisonment for not more than twelve months or both. For any continuing violation, each day of the violation shall be considered a separate offense.

Sec. 60-185. Liability for expenses.

Any person violating any provision of this article shall become liable to the city for any expenses incurred by the city as a result of such violation.

Sec. 60-186. Termination of service.

Any industrial user found to be in violation of this article, or of any wastewater discharge permit or order issued hereunder, is subject to termination of water and/or sewer service.

Such industrial user shall be given 30 days' notice of the proposed termination of service and offered an opportunity to show cause why the proposed action should not be taken, unless immediate suspension of service pursuant to section 60-188 is necessary.

Sec. 60-187. Show cause hearing.

The director may order any person which causes or contributes to violation(s) of this article, wastewater discharge permits or orders issued hereunder, or any other pretreatment standard or pretreatment requirement, to appear before the director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the person show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least seven days prior to the hearing. Such notice may be served on any authorized representative of the industrial user. A show cause hearing shall not be a prerequisite for taking any other action and shall not otherwise limit the director's authority to proceed under this article during the pendency of the show cause proceedings.

Sec. 60-188. Emergency suspensions.

(a) The director may immediately suspend water and or sewer service to an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons, which threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(b) Any industrial user notified of a suspension of water and/or sewer service shall immediately stop or eliminate its discharge. If an industrial user fails to immediately comply with the suspension order, the director shall take such steps as are deemed necessary, including immediate severance of the sewer connection and termination of water service, to prevent or minimize damage to the POTW, the receiving stream, or endangerment to any individuals. The director shall allow the industrial user to recommence its discharge when the industrial user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings set forth in section 60-186 are initiated against the industrial user.

(c) An industrial user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the cause(s) of the harmful discharge and the measures taken to prevent any future

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occurrence to the director, prior to the date of any show cause or termination hearing under sections 60-186 and 60-187

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

Sec. 60-189. Remedies nonexclusive.

The provisions in sections 60-180 through 60-188 are not exclusive remedies. The director may take any, all, or any combination of these actions against a noncomplying industrial user. Nothing in this article is intended to limit the enforcement discretion of the city.

DIVISION 9. - FEES AND COSTS

Sec. 60-190. Fees and costs.

Sec. 60-191. Permit fees and monitoring fees.

Sec. 60-192. Surcharge when concentration of BOD, suspended solids or oil and grease exceeds normal sewage.

Sec. 60-193. Payment of surcharge, permit and monitoring fees.

Sec. 60-194. Hauled waste fees.

Secs. 60-195—60-199. Reserved.

Sec. 60-190. Fees and costs.

Industrial users shall pay the cost of the wastewater discharge permitting program, the cost for any treatment of discharges with BOD and/or suspended solids in excess of that found in normal sewage, and the cost for collection and treatment of hauled waste in accordance with this section.

Sec. 60-191. Permit fees and monitoring fees.

(a) All permittees are responsible for defraying the costs of administering the permitting program.

(b) Permit application review fees are applicable and are normally due at the time of the permit application. Permit application review fees shall normally be billed at the same time as the water bill and the normal sewer service charge unless otherwise approved by the director.

(c) Permit maintenance fees have been calculated to include a portion of the average costs of sampling and analysis for each class of permit as well as the costs of compliance inspections, report reviews, data analyses, permit modifications, correspondence and other routine permit maintenance activities. permit maintenance fees are payable on a monthly basis and shall normally be billed at the same time as the water bill and the normal sewer service charge unless otherwise approved by the director.

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(d) If additional sampling and analyses are required by enforcement circumstances, sample collection shall be billed at the rate of \$335.00 per occurrence (day) and sample analyses shall be billed at cost as determined by the current city laboratory analyses fee schedule. Enforcement sampling and testing charges shall normally be billed at the same time as the water bill and the normal sewer service charge unless otherwise approved by the director.

(e) A wastewater discharge permit shall be issued/reissued only after payment of applicable fees. Permit fees are non-refundable. The following fees are applicable:

Permit Class Fee (note 1)	Permit Monthly Application Review	Permit Maintenance
1. Temporary (<1 yr)		
a. <35,000	\$159.00	\$408.00
b. <35,000 to <75,000.00 gal.	\$214.00	\$926.00
c. >75,000 gal.	\$261.00	\$1225.00
2. Special wastes only		
a. Radioactive, Medical	\$261.00	\$72.00
3. Waste treatment facilities		
a. <30,000 gal/mo	\$373.00	\$145.00
b. >30,000 gal/mo	\$476.00	\$291.00
4. Groundwater remediation projects		
a. <120,000 gal/yr	\$159.00	\$145.00
b. >120,000 gal/yr	\$261.00	\$216.00
5. Categorical facilities		
a. <1,000 gpd	\$159.00	\$72.00
b. 1,000 to <10,000 gpd	\$261.00	\$145.00
c. 10,000 to <25,000 gpd	\$373.00	\$216.00
d. >25,000 gpd	\$476.00	\$291.00
6. Non-categorical large water users		
a. <50,000 gpd	\$159.00	\$145.00
b. >50,000 to <250,000 gpd	\$261.00	\$216.00
c. >250,000 gpd	\$318.00	\$291.00
7. Other		
a. BOD, SS, &/or O&G	\$261.00	\$145.00
b. Other	\$261.00	\$145.00

Note 1. Permit maintenance fees will be subject to a 200 percent surcharge for a period of 12 consecutive months following a determination of significant non-compliance (SNC) as defined in section 60-181.

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Permit maintenance fees will be subject to a 40 percent discount after a period of 12 consecutive months with no "notice of violation" (NOV) non-compliance determinations. This discount will be rescinded immediately upon issuance of any NOV.

Sec. 60-192. Surcharge when concentration of BOD, suspended solids or oil and grease exceeds normal sewage.

(a) Imposition. When the BOD, suspended solids and/or oil and grease concentration of a discharge exceeds the maximum concentration of any or all of these components in normal sewage, a surcharge or surcharges established by the formula hereinafter set forth shall be levied in addition to the normal sewer service charge.

(b) Computation of amount. The surcharge shall be computed by using the formulae:

$$SBOD = (V_{sub}) \cdot (0.00624) \cdot (RB) \cdot (BOD = 250)$$

$$SSS = (V_{sub}) \cdot (0.00624) \cdot (RS) \cdot (SS = 250)$$

$$SO\&G = (V_{sub}) \cdot (0.00624) \cdot (RG) \cdot (OG = 30)$$

ESC = Extra strength control charges

The symbols, letters or figures employed in the formulae signify:

SBOD, SSS and SO&G = Extra strength surcharges in dollars.

V_{sub} = Wastewater volume in hundred cubic feet.

0.00624 = Conversion factor from milligrams per liter to pounds per hundred cubic feet.

RB = Surcharge rate established in article I of this chapter, as the same now exists or may hereafter be amended, in dollars for the treatment of each pound of BOD in excess of 250 mg/l which is the concentration of normal sewage.

BOD = BOD concentration of the discharge in milligrams per liter.

RS = Surcharge rate established in article I of this chapter, as the same now exists or may hereafter be amended, in dollars for the treatment of each pound of suspended solids in excess of 250 mg/l which is the concentration of normal sewage.

SS = Suspended solids concentration of the discharge in milligrams per liter.

RG = Surcharge rate established in article I of this chapter, as the same now exists or may hereafter be amended, in dollars for the treatment of each pound of oil and grease in excess of 30 mg/l which is the concentration of normal sewage.

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OG = Oil and grease concentration of the discharge in milligrams per liter.

ESC = Extra strength control charge.

The extra strength control (ESC) charge shall be the actual departmental cost for each individual user, including overhead, related to obtaining, measuring and analyzing wastewater samples to determine wastewater strengths for billing purposes. The director shall determine the method and frequency of said testing as may be reasonable for each industrial user in accordance with recognized engineering practices; provided, however, that an industrial user shall be entitled to additional sampling at its request upon payment of additional costs therefor. In lieu of sampling and analysis by the city, the director, at his discretion, may permit an industrial user to collect and analyze samples of its own wastewater at its own expense, provided that samples are taken at least annually and collected and analyzed in accordance with standard laboratory methods and the results are certified by a professional engineer registered in the State of Missouri. The city reserves the right to verify any such submitted data.

Sec. 60-193. Payment of surcharge, permit and monitoring fees.

(a) Any surcharge or surcharges pursuant to section 60-192 shall be shown on the water bill as a separate item or items which shall show the amount of the surcharge or surcharges and shall be payable to the water services department at the same time as the water bill and the normal sewer service charge.

(b) Any permit application fee pursuant to section 60-191 shall be shown on the water bill as a separate item which shall show the amount of the permit application fee and shall be payable to the water services department at the same time as the water bill and the normal sewer service charge.

(c) Any permit maintenance fee pursuant to section 60-191 shall be shown on the water bill as a separate item which shall show the amount of the permit maintenance fee and shall be payable to the water services department at the same time as the water bill and the normal sewer service charge.

(d) Any enforcement sampling and testing charges pursuant to section 60-191 shall be shown on the water bill as a separate item which shall show the amount of the enforcement sampling and testing charges and shall be payable to the water services department at the same time as the water bill and the normal sewer service charge.

(e) All surcharge, permit application, permit maintenance, and/or sampling and testing revenue collected in accordance with the provisions of this section shall be deposited with the city treasurer in the same separate fund as is the revenue collected for the normal sewer service charge. All such revenue shall be used to pay the cost of constructing, operating, maintaining, and enlarging the existing or future wastewater works of the city, and to pay the principal and interest of sewer revenue bonds.

Sec. 60-194. Hauled waste fees.

Fees for receiving and treating hauled wastes, as allowed under section 60-125 of this article, shall be as established by the director and published as "billing policy for waste generators and haulers". This policy shall be updated annually to reflect and recover the actual costs of providing this service.

Secs. 60-195—60-199. Reserved.

DIVISION 10. - INTERJURISDICTIONAL AGREEMENTS

Sec. 60-200. Interjurisdictional agreements.

Sec. 60-201. Interjurisdictional agreement provisions.

Secs. 60-202—60-209. Reserved.

Sec. 60-200. Interjurisdictional agreements.

Sewerage services may be extended to governmental jurisdictions outside the city limits through interjurisdictional agreements (IJAs). These IJAs shall contain provisions to recover the total costs of these sewerage services and to comply with industrial pretreatment regulations.

Sec. 60-201. Interjurisdictional agreement provisions.

(a) The director, with the approval of the city council, may enter into cooperative agreements for wastewater collection and/or treatment services with other governmental jurisdictions, provided that:

- (1) The other jurisdiction adopts a sewer use ordinance which is at least as stringent as this article and adopts local limits which are at least as stringent as those set forth in section 60-121.
- (2) The other jurisdiction submits a revised commercial and industrial user inventory on at least an annual basis.
- (3) The other jurisdiction conducts an EPA- or state-approved program of pretreatment implementation activities including industrial user permit issuance, inspection and sampling, and enforcement, or authorizes the City of Kansas City, Missouri and its servants, employees or agents to conduct such activities on its behalf.
- (4) The other jurisdiction agrees to provide the city with access to all information that the other jurisdiction obtains as part of its pretreatment activities in areas served by the city's POTW.
- (5) The other jurisdiction agrees to pay the appropriate surcharge as determined by section 60-192 of this article based upon the measured flow

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and concentration of BOD, suspended solids, and oil and grease at each interconnection point.

- (6) The other jurisdiction's total discharge to the city's POTW meets the general prohibitions provided in section 60-121 and the following specific pollutant limitations:

Pollutant Daily Maximum

Arsenic 0.100 mg/l
Benzene 0.100 mg/l
Cadmium 0.240 mg/l
Chromium 0.500 mg/l
Copper 0.300 mg/l
Cyanide 0.800 mg/l
Ethylbenzene 0.200 mg/l
Lead 0.300 mg/l
Mercury 0.004 mg/l
Nickel 1.200 mg/l
Phenols 2.000 mg/l
Silver 0.500 mg/l
Thallium 0.400 mg/l
Toluene 0.200 mg/l
Xylene 0.200 mg/l
Zinc 0.800 mg/l
PCBs 0.002 mg/l

Total toxic organics (TTOs) as defined by 40 CFR 433.11(e) shall not exceed 1.0 mg/l at any time.

- (7) Exceedances of pollutant limitations as set forth in section 60-201(a)(6) will be subject to a surcharge for each pollutant for each exceedance to be calculated as follows:

Daily maximum exceeded per pollutant:

$$((AD/LD)-1) \times MGD \times \$10,000.00$$

The symbols, letters or figures employed in the formula signify the following:

AD = average concentration of a particular pollutant discharged in any one day.

LD = Daily maximum concentration of a particular pollutant which may be discharged as defined in section 60-201(a)(6).

MGD = Average daily flow rate, in million gallons per day, for the reporting period.

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- (8) The surcharges described in section 60-201(a)(7) of this article shall be waived if the other jurisdiction has authorized the city to conduct industrial pretreatment implementation and enforcement activities in its behalf and, the director has determined that the other jurisdiction has made a good faith effort to assist in said implementation and enforcement activities.
- (9) The other jurisdiction installs, at its cost, a suitable connection structure with adequate provisions for reliable flow recording and monitoring. A permanent monitoring facility should be provided if such flow includes discharge:
 - a. From 100 or more dwelling units; or
 - b. From any commercial or industrial user; or
 - c. Which exceeds 25,000 gallons per day average daily flow.

(b) Interjurisdictional agreements entered into or amended after the effective date of this article shall include and comply with the provisions of this section.

Such agreements may contain compliance schedules of up to five years for any physical construction necessary for compliance with the agreement's provisions.

(c) The provisions of existing interjurisdictional agreements notwithstanding, the pollutant limitations listed in section 60-201(a)(6) shall take effect 180 days after the effective date of this article.

(d) Rates for volume, BOD, suspended solids, and oil and grease shall be established by article I of this chapter as the same now exists or as may be amended or revised.

(e) The requirements of section 60-201(a) through 60-201(d) of this article may not apply to wastewaters which are not treated at the city's wastewater treatment plants subject to the conditions of each negotiated inter jurisdictional agreement.

Secs. 60-202—60-209. Reserved.

DIVISION 11. - MISCELLANEOUS PROVISION

Sec. 60-210. Confidential information.

Sec. 60-211. Scope of provisions.

Sec. 60-212—60-300. Reserved.

Sec. 60-210. Confidential information.

Information and data about an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, monitoring programs, and from inspection and sampling activities, shall be available to the public unless the industrial user specifically requests otherwise, and is able to demonstrate to the satisfaction of the director that the information is not required to be disclosed under Missouri or federal law. When the industrial user has demonstrated that such information should be held confidential, and the department concurs, the portions of a report which might disclose the confidential information shall not be made available for inspection by the public, but shall be made available 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. The city shall be permitted to introduce any admissible evidence it deems necessary in any criminal prosecution without regard to the request for confidentiality under this section. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public.

Sec. 60-211. Scope of provisions.

This article shall take precedence over any other earlier ordinances or sections thereof which may be in conflict with this Article.

Sec. 60-212—60-300. Reserved.

Chapter 60 - ARTICLE V. - RESERVED

Secs. 60-301—60-340. - Reserved.

CHAPTER 60 - ARTICLE VI. - CONSTRUCTION AND REPAIR OF PRIVATE SEWAGE FACILITIES AND HOUSE LINES

Sec. 60-341. Construction or repair by property owner of sewage treatment or pumping facilities; authorized; prerequisites.

Sec. 60-342. Engineering reports, plans and specifications.

Sec. 60-343. Construction permit.

Sec. 60-344. Bonds and insurance.

Sec. 60-345. Construction standards; acceptance by city.

Sec. 60-346. Refusal of building permit or sewer connection permit on determination of insufficient capacity.

Sec. 60-347. Penalty for failure to obtain permit.

Sec. 60-348. Repairs to house service lines.

Sec. 60-341. Construction or repair by property owner of sewage treatment or pumping facilities; authorized; prerequisites.

The director of water services is hereby authorized to issue special permits, upon request, to owners of private property, or their representatives or contractors, to construct,

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repair or reconstruct at their own expense sewage treatment or sewage pumping facilities, on their property or in the public streets or alleys adjacent thereto; provided such property shall have been specifically granted a special permit by the board of zoning adjustment for such use, and such facilities are, in the director's judgment, reasonably necessary. No person shall begin any such improvement until such permit shall have been issued.

Sec. 60-342. Engineering reports, plans and specifications.

(a) Engineering reports, plans and specifications for sewage treatment or sewage pumping facilities authorized under section 60-341 shall be prepared by a registered professional engineer authorized to practice engineering in this state and who is retained by the property owner, and shall be submitted to the water services department for review and approval.

(b) The engineering reports, plans and specifications for the sewage treatment or sewage pumping facilities shall conform to minimum standards as promulgated by the state clean water commission, and, in addition, shall comply with all pertinent rules and regulations as may be adopted by the director of water services, which rules and regulations shall become effective when approved by the city attorney and filed with the director of records.

Sec. 60-343. Construction permit.

(a) Before commencing any work on the sewage treatment or sewage pumping facilities authorized under section 60-341, after the engineering reports, plans and specifications have been approved by the director of water services, the property owner or his agent or contractor shall obtain a construction permit from the director of water services.

(b) Before the issuance of such permit, which shall be in lieu of a building permit, the applicant shall pay an inspection fee amounting to two percent of the estimated cost of construction, but in no case shall the fee paid by the applicant be less than \$25.00. The estimated cost of the construction shall be an estimate based on costs of similar construction, current at the time of application for the permit. This estimate of cost shall be subject to the approval by the director of water services. For industrial waste control plants not to be maintained by the city, the permit fee shall be limited to the cost of review of plans and specifications by the city.

Sec. 60-344. Bonds and insurance.

(a) In all cases where the estimated cost of the project authorized under section 60-341 shall exceed \$300.00, the director of water services shall require the property owner or his agent to furnish a surety bond, otherwise known as performance bond, equal to the estimated cost of the work. The bond shall guarantee satisfactory performance and completion of the work to the satisfaction of the director of water services, within a time limit specified on such special permit; also, at this time, the permittee shall furnish a surety bond, otherwise known as a maintenance bond, equal to the estimated cost of the work, conditioned that the improvements shall be constructed of such materials and in such manner that the improvement shall endure, without need of repair, for one year after

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the final inspection of construction and acceptance of construction by the director of water services.

(b) The director of water services shall also require the permittee to file a bond conditioned to protect and save harmless the city from all claims for damage or injury or death, to other persons and property, by reason of such construction work, or in lieu of such bond the permittee may file with the city a public liability insurance policy with the city being named as the insured, indemnifying the city for such claims for damage or injury, the amount and sureties of the bond or insurance to be approved by the director of finance.

(c) All bonds or insurance forms are to be filed with the director of finance at the time the permit is issued.

Sec. 60-345. Construction standards; acceptance by city.

(a) All work of construction on facilities authorized under section 60-341 shall be in accordance with the approved engineering reports, plans and specifications, all applicable city standard specifications on file in the office of the director of water services, and all applicable provisions, of the building code of the city. Also, all such work shall be done under the direction and supervision and to the satisfaction and acceptance of the director of water services. Acceptance of the completed facility by the director shall be made only after receipt of evidence that all bills for labor, materials and equipment have been paid, and as-built plans certified by a registered professional engineer have been delivered to the director of water services. Upon acceptance of the facility and conveyance of acceptable title to the city, the department of water services will maintain and operate the facility and collect sewer service charges in accordance with applicable city ordinances.

(b) The granting of this special permit and the construction of the sewage treatment or sewage pumping facility, and acceptance by the city of such facilities for maintenance and operation, shall not exempt the property served by it from being taxed for the construction of sewers in the districts or in the joint districts now or hereafter established in which any facility may be constructed, and the city shall not be bound by the construction to consider that the properties served by such facilities constitutes a separate sewer district, and the city shall have the right and power to assume ownership of, to make use of, and to construct, reconstruct or change the sewage pumping facilities in any manner or do any other things necessary for the proper sewerage and treatment of sewage wastes from the area serviced by the facility authorized by the special permit.

(c) Nothing in this section shall be construed to mean that the property owner or his assigns shall be denied the right to use the sewage treatment or pumping facility up to the approved designed capacities as stipulated in the approval of plans and specifications by the director of water services.

Sec. 60-346. Refusal of building permit or sewer connection permit on determination of insufficient capacity.

The directors of city planning and development and the water services departments are hereby directed to refuse the issuance of building permits or sewer connection permits for any residence, building or structure where a determination has been made and evidenced in writing by the director of water services that such addition would result in exceeding the design capacities of the sewerage facilities of the city.

Sec. 60-347. Penalty for failure to obtain permit.

(a) Any person, whether owner, representative, contractor, subcontractor or foreman, who shall construct, repair, reconstruct or alter any sewage treatment facility or sewage pumping facility within any public way or on any private property without first securing a special permit therefor, issued by the director of water services, shall be deemed guilty of an ordinance violation, and upon conviction thereof shall be fined in a sum not less than \$50.00 and not more than \$500.00.

(b) For every day, after the conviction of any person for the violation or failure, neglect or refusal to comply with any provision, regulation or requirement of this section, that such violation is continued, such person shall be deemed and taken to be guilty of a separate and distinct offense, for which he may be again arrested, tried, convicted and punished as in the first instance.

Sec. 60-348. Repairs to house service lines.

(a) *Authority.* The director of water services is hereby authorized to replace and repair all that part of any broken or collapsed private house services line which lies within the confines of street or alley rights-of-way, or within sewer or utility easements under the control of the city for sewer purposes, provided that resources are available to accomplish this work without handicap or neglect to the maintenance and repair of public sewers. Repair of all that portion of house service lines lying outside the confines of streets, alleys or sewer easements shall remain the responsibility of the owner thereof.

(b) *Emergency repairs.* Repair of that part of a private house service line on public property may be accomplished by the city as soon as feasible without resort to emergency measures or undue interference with other maintenance and repair activities. If an owner or occupier of property deems that emergency repair is necessary and does not elect to await the repair as may be scheduled by the city, the repair shall be accomplished by a licensed plumber engaged by and at the expense of the owner or occupier of the property.

(c) *Prerequisites for repair of house sewer lines by city.* Replacement or repair may be accomplished by the city only when the property owner:

- (1) Is not desirous of having replacement or repair accomplished by a licensed plumber at his own expense; and
- (2) Provides a statement from a licensed plumber certifying that a broken or collapsed house service line does exist on a public right-of-way.

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The certification shall give the approximate location of the break and efforts used by the plumber in attempting to determine the location of the break. House service lines broken by an agency of the city or by its contractors or by the contractors in private or public employment shall not be subject to repair under this section.

(d) *Access to private property for repair of house service lines.* The water services department shall not repair or cause to be repaired any house service line described in this section unless the owner or occupant of the property directly affected shall permit the city to have access to such property as may be necessary to determine the alignment of the house service line between the building or appurtenances and the public sewer, or to effect the repair in an efficient manner.

(e) *Additional regulations for repair of house service lines.* The director is hereby authorized to issue regulations to control the repair program authorized by this section, including but not specifically limited to regulations relating to materials, surface restoration, safety precautions, requirements for operation of owner or occupant, and compliance with building codes.

CHAPTER 61 - ARTICLE I. - STORMWATER UTILITY

- Sec. 61-1. Control of storm water system.
- Sec. 61-2. Purpose of chapter.
- Sec. 61-3. Stormwater utility division; applicability of stormwater fee.
- Sec. 61-4. Collection and amount of stormwater fees.
- Sec. 61-5. Reserved.
- Sec. 61-6. Payment of stormwater charges.
- Sec. 61-7. Master drainage plan.
- Sec. 61-8. Nonliability of city for damage caused by flooding.
- Sec. 61-9. Stormwater coordinating committee.
- Secs. 61-10—61-19. Reserved.

Sec. 61-1. Control of storm water system.

(a) The water services department shall have control of, and responsibility for, the planning and construction of all storm sewers which are financed by special assessment against the benefited property, all storm sewers constructed privately as a part of the city's sewer system, by persons, firms, corporations and associates, under a permit issued by the City, and storm sewers constructed from funds otherwise made available to the department by appropriate action of the city council.

(b) The water services department shall have responsibility for the planning and construction of the stormwater system. The water services department shall also have responsibility for the maintenance and operation of the city's stormwater system, including storm sewers, combined sewers, pumping stations, force mains, drainage ways, levees, detention/retention basins, and treatment works.

Sec. 61-2. Purpose of chapter.

(a) The purpose of this chapter is to protect, preserve and promote the public health, safety and welfare of the citizens of the city from damage from stormwater runoff and floods; to provide funds necessary for the payment of the cost of the administration,

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management, operation and maintenance, planning and engineering of improvements that are necessary for the operation of the city's stormwater system and for payment of the cost of construction, reconstruction, enlargement and replacement of any part of the city's stormwater system and appurtenances; for the payment of the principal and interest upon bonds issued and outstanding, and to be issued, for stormwater facilities; and for the acquisition of land for such purposes.

(b) It is the intent of the city council, in enacting this chapter, to:

- (1) Promote public health, safety and welfare by planning for the movement of emergency vehicles during flooding periods and minimizing flood losses and the inconvenience and damage resulting from uncontrolled and unplanned stormwater runoff in the city;
- (2) Provide for the construction, reconstruction, enlargement, maintenance and replacement of the stormwater system as is necessary or desirable to manage storm and flood waters and to provide for the efficient management of the stormwater system;
- (3) Establish a master plan for stormwater and flood management and its implementation, including, without limitation, a coordinated program of creating upstream ponding or temporary detention of stormwaters;
- (4) Establish a stormwater and flood management utility to coordinate, design, construct, manage, operate and maintain the stormwater and flood management system;
- (5) Establish reasonable stormwater and flood management fees based on the use of the stormwater system; and
- (6) Encourage and facilitate urban water resources management techniques, including, without limitation, detention of stormwater and floods, reduction of the need to construct storm sewers, reduction of pollution and enhancement of the environment.

Sec. 61-3. Stormwater utility division; applicability of stormwater fee.

(a) There is hereby created a stormwater utility within the water services department under the control of the director of water services, who is empowered to implement the provisions of this article.

(b) The stormwater utility hereby created shall be responsible for the management of the stormwater system.

(c) The stormwater fee shall be used for the sole purpose of stormwater system management, which includes catch basin maintenance, storm sewer and channel maintenance, flood protection system management and stormwater master planning.

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Sec. 61-4. Collection and amount of stormwater fees.

There is hereby assessed a stormwater fee on every property within the city limits, that prevents stormwater from being directly absorbed into the underlying ground. The fee shall be based on the amount of surface ("runoff surface") on a given property. Such fees are to be computed and levied as follows:

- (1) *Fee structure.* The stormwater fee is based upon the amount of runoff surface on a property, not an actual or theoretical stormwater runoff. The fee structure considers runoff surface to be an indicator of a property's runoff contribution, but also considers the fixed costs of the stormwater utility, which benefit all properties in the city. Fixed costs include program administration as well as maintenance of the storm drainage and flood protection systems.
- (2) *Runoff surface.* A "runoff surface" is an impervious surface area that does not allow rain or snow melt to be directly absorbed into the underlying ground.
 - a. Runoff surfaces include, but are not limited to: Rooftops, asphalt or concrete driveways, patios, parking lots, tennis courts, swimming pools.
 - b. Runoff surfaces do not include:
 1. Wood decks located above a pervious (dirt, grass or gravel) surface area; or
 2. Gravel/rock areas such as: rocked landscaped areas, or driveways or parking lots not required to be paved pursuant to code section 52-35
 - c. Updated runoff surface determinations shall be made through new aerial photographs or any other means available to the director of water services. It shall be the duty of a property owner to notify the director of water services of any changes in runoff surface if the owner desires the runoff surface determination be reconsidered. Runoff surface determinations shall not be retroactive without convincing documentation confirming the date that a runoff surface changed.
- (3) *Fee amount.* The stormwater fee shall be \$0.50 per month for each 500 square feet ("runoff unit"), or portion of 500 square feet, of runoff surface on a property. Portions of a runoff unit shall be rounded up to the next highest runoff unit only when the portion is 0.5 runoff unit or greater.
- (4) *Stormwater fee credits.*
 - a. Ratio credit. Properties that have a large pervious area to help absorb runoff from the runoff surface will be given a ratio credit, if

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the ratio of the total property area to the runoff surface area is at least 30:1. Properties that qualify shall be granted a 50 percent stormwater fee credit.

- b. Detention credit. Stormwater detention structures are installed and maintained to reduce the peak flow of and runoff volume of stormwater from a drainage area, thereby reducing flooding and erosion downstream. Properties served by a privately owned, and properly maintained, detention structure shall be granted a stormwater fee credit. The amount of the credit shall be based on the reduction of stormwater runoff provided by the detention structures and be calculated according to guidelines established by the director of water services. The minimum credit shall be ten percent and the maximum credit shall be 50 percent.
 - c. It shall be the duty of the property owner to apply for the ratio credit, detention credit, or both. If a property receives both a ratio credit and a detention credit, the ratio credit shall be applied first, and then the detention credit shall be applied to the remaining amount. The combined credit shall not exceed 75 percent.
- (5) *Appeals.* Upon the written request of any owner whose property is subject to the stormwater fee, the director of water services, or a person designated by the director of water services, shall review the applicability or amount of the stormwater fee. Matters which shall be reviewed may include:
- a. Whether a surface is considered a runoff surface subject to the stormwater fee;
 - b. Amount of runoff surface, or number of runoff units, subject to the stormwater fee;
 - c. Bill payment responsibilities; and
 - d. Amount and applicability of stormwater fee credits.
- (6) *Billing procedures.*
- a. Stormwater fee charges for properties with one water service or sanitary sewer service account shall be included on the water bill in the manner established by chapter 78 of the code of ordinances, subject to additional provisions of this subsection.
 - b. For properties where the water or sewer service accounts are inactive, or for the properties which have no water or sewer service accounts, a bill shall be sent to the property owner. The director of water services shall determine the frequency of the billing.
 - c. For new residential, commercial and industrial properties an estimated runoff surface may be established for billing purposes until such time as the actual runoff surface can be determined. If,

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after the actual runoff surface for the property has been established, it is determined that the property was overcharged, then a credit for the amount overcharged shall be applied to the account.

- (7) No stormwater service charge shall be charged for any parcel of land that is void of any development.
- (8) *Rules and regulations.* The director of water services shall have power to promulgate reasonable rules, regulations, orders and direction as may be necessary and feasible to implement the provisions of this section.
- (9) *Additional enforcement of collections.* In addition to procedures established in this section, the stormwater fee may be collected and enforced under and pursuant to the provisions of chapters 60 and 78 of this code.
- (10) "Month" or "monthly" shall refer to a time period of 30 days. Bills greater or less than 30 days shall be prorated per day based on the billing period.

Sec. 61-5. Reserved.

61-6. Payment of stormwater charges.

The stormwater fees provided in section 61-4 shall be payable to the water services department at the same time as the water bill, or at such other time as designated on the bill for stormwater charges.

Sec. 61-7. Master drainage plan.

(a) The director of water services shall develop a master drainage plan for the city, based on engineering studies, that indicates the location of all drainage facilities in the city, including those facilities that currently exist and those determined to be needed and that are intended to be constructed in the future. The plan shall include all major drainageways that directly or indirectly affect drainage within the city, all drainage basins in the city, and all natural drainage courses and other drainage facilities required to provide for the drainage and management of surface waters within the drainageways and basins and to carry such waters to designated points without overflow or discharge. The plan may also show any other information that the director deems desirable. The director shall solicit public participation during the formulation of the master drainage plan and other phases of implementation of the storm drainage and flood management program provided in this article.

(b) The purpose of the master drainage plan prescribed by this section is to identify and alleviate present and future drainage and flooding problems in the city by means of presenting in an orderly fashion the general data and information essential in understanding the relationship between rainfall and storm runoff. The master drainage plan serves as the official designation of drainage facilities and drainageways and basins shown thereon and may be altered from time to time to conform to existing conditions.

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(c) Any time a project is proposed by the city to implement the master drainage plan, the director shall hold a public hearing in the neighborhood where the project is to be constructed, after publishing notice in a newspaper of general circulation.

(d) The director may undertake supplementary studies to determine the estimated cost of constructing the drainage facilities shown on the master drainage plan, including the expense of any necessary land acquisition.

(e) The city council shall adopt the master drainage plan by resolution. No substantial modifications thereof may be made unless the council first approves them.

(f) After adoption of the master drainage plan, the director of records shall retain a copy on file for public inspection during normal business hours.

(g) In the annual proposed city budget, the director shall submit to the city council a proposed budget for construction of drainage facilities, containing a statement of all amounts currently in the stormwater funds, an estimate of anticipated revenues for the ensuing budget year, and a list of the proposed projects to be constructed or developed.

Sec. 61-8. Nonliability of city for damage caused by flooding.

Larger floods from stormwater runoff may occasionally occur which exceed the capacity of storm drainage facilities constructed and maintained by funds made available under this article. This article does not imply that property liable for the fees established in this article will always be free from stormwater flooding or flood damage. This chapter shall not create a liability on the part of, or a cause of action against, the city or any officer or employee thereof for any flood damage that may result from storms or the runoff thereof. This article does not purport to reduce the need for obtaining flood insurance.

Sec. 61-9. Stormwater coordinating committee.

(a) The stormwater coordinating committee is hereby established to facilitate thorough review and coordination of stormwater management functions for the city.

(b) The membership of the stormwater coordinating committee shall be composed of member departments as follows:

- (1) Director of water services department who shall serve as chairperson and secretary;
- (2) Director of city planning and development;
- (3) Chief environmental officer;
- (4) Director of neighborhood and community services;
- (5) Director of parks and recreation; and
- (6) Director of public works.

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(c) The responsibilities of the stormwater coordinating committee shall include, but not be limited to, the following:

- (1) Review major planning and major development projects;
- (2) Recommend stormwater policy changes;
- (3) Assist the water services department stormwater utility as requested;
- (4) Develop appropriate stormwater design standards, regulations, zoning and enforcement criteria; and
- (5) Fulfill other responsibilities as assigned by the city manager.

(d) The city manager is authorized to promulgate procedures to provide for the proper administration and documentation of the stormwater coordinating committee activities.

Secs. 61-10—61-19. Reserved.

CHAPTER 61 - ARTICLE II. - STORM SEWER AND DRAIN CONSTRUCTION

Sec. 61-20. Enclosing natural drainage ditches.

Secs. 61-21—61-49. Reserved.

Sec. 61-20. Enclosing natural drainage ditches.

(a) *Permit required.* No person shall enclose any natural drainage ditch abutting against or traversing his property without having first obtained a permit from the city planning and development department for such enclosure.

(b) *Filing of plans.* Prior to the issuing of the permit, the permittee shall file plans showing the method of construction of the enclosure with the city planning and development department and obtain its approval of such methods and materials, and the size of the structure or pipe.

(c) *Materials.* Any pipe, culvert, box enclosure or similar mechanism employed to contain any such creek, creek bed, natural drainage ditch or other stream shall be of a material meeting requirements as set forth in the general specifications entitled "Pipes, Sewer," on file in the department of water services.

(d) *Issuance of permit; inspections.* The permit issued for such enclosure shall be at no charge. The permittee shall notify the city planning and development department when the enclosure is complete and prior to the placing of backfill or topsoil cover over the enclosure, so that the city planning and development department may inspect the work and material in place in order to ensure conformance with this section.

(e) *Noncompliance with specifications.* Should such materials or methods employed by a permittee not be in conformance with the specifications for such work as furnished by the department of water services, then the city planning and development department may order the removal of such enclosure, pipe or conduit.

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(f) *Responsibility for maintenance and repair.* Nothing contained in this section shall increase the liability of the city for future maintenance or repair of any such pipe, conduit, culvert or enclosure placed in any stream, creek bed or drainage ditch, such maintenance and repair being and remaining the sole responsibility of the property owner upon whose property such ditch or creek bed lies.

Secs. 61-21—61-49. Reserved.

CHAPTER 61 - ARTICLE III. - STORMWATER DISCHARGE CONTROL REGULATIONS

- Sec. 61-50. Title and authority.
- Sec. 61-51. Purpose.
- Sec. 61-52. Definitions and rules of construction.
- Sec. 61-53. Abbreviations.
- Sec. 61-54. Applicability.
- Sec. 61-55. Minimum standards.
- Sec. 61-56. Prohibitions.
- Sec. 61-57. Monitoring of discharges.
- Sec. 61-58. Requirement to prevent, control, and reduce stormwater pollutants.
- Sec. 61-59. Industrial users.
- Sec. 61-60. Industrial users outside of city.
- Sec. 61-61. Industrial or construction activity discharges.
- Sec. 61-62. Suspension of system access.
- Sec. 61-63. Notification of spills.
- Sec. 61-64. Notice of violation.
- Sec. 61-65. Appeal of notice of violation.
- Sec. 61-66. Abatement.
- Sec. 61-67. Cost of abatement of the violation.
- Sec. 61-68. Violations deemed a public nuisance.
- Sec. 61-69. Penalty.
- Sec. 61-70. Remedies not exclusive.
- Secs. 61-71—61-99. Reserved.

Sec. 61-50. Title and authority.

This article shall be known as the Kansas City, Missouri stormwater discharge control regulations and may be cited as stormwater discharge control regulations or regulations. The director of water services shall be responsible for the administration and enforcement of this article.

Sec. 61-51. Purpose.

(a) 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 stormwater and non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law.

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(b) The objectives of this article are:

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

Sec. 61-52. Definitions and rules of construction.

(a) Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

- (1) Best management practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (2) Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and any subsequent amendments thereto.
- (3) Combined sewer system (CSS) means a sewer system designed and operated to carry both stormwater and wastewater.
- (4) Construction activity means activities subject to NPDES land disturbance permits or city land-disturbance permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (5) Dechlorinated water means water containing not more than one milligram per liter of chlorine.
- (6) Director means the director of water services for Kansas City, Missouri or the director's authorized representative(s).
- (7) Discharge means material directly or indirectly released to the city's storm drainage system or the act of releasing material directly or indirectly to the city's storm drainage system or to a watercourse within the boundaries of a premises.

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- (8) Discharger means any person that discharges to the city's storm drainage system.
- (9) Hazardous materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (10) High-risk discharge means any discharge or release from any premises to the storm drainage system that contains or may contain pollutants at concentrations that would cause or contribute to a violation of water quality standards.
- (11) Illicit connection means any of the following:
- a. Any drain or conveyance, whether on the surface or subsurface, which allows a prohibited discharge to enter the storm drainage system including, but not limited to, any conveyances which allow any non-stormwater discharge including wastewater, process wastewater, and wash water to enter the storm drainage system and any connections to the storm drainage system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the director except that discharge of wastewater not otherwise prohibited may be discharged to the combined sewer system;
 - b. Any drain or conveyance connected from a commercial or industrial land use to the storm drainage system which has not been documented in plans, maps, or equivalent records and approved by the director;
 - c. Any drain or conveyance, whether surface or subsurface that delivers stormwater to the sanitary sewer system, unless allowed under the city's current building code;
 - d. Any connection from a roof drain, sump pump, area drain or yard drain that delivers storm water to the buildings sanitary sewer (which conveys the buildings wastewater and connects to the public sewer) or to the sanitary sewer system unless specifically authorized by the director.
- (12) Industrial activity means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).
- (13) Industrial user means any source of discharge into the storm drainage system from hazardous waste treatment, disposal, and recovery facilities;

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industrial facilities subject to SARA Title III Section 313; and other industrial or commercial facilities that the director determines is contributing or has the potential to contribute a substantial pollutant loading to the storm drainage system.

- (14) Missouri Clean Water Law means Chapter 644 of the Revised Statutes of Missouri and any subsequent amendments thereto.
- (15) Municipal separate storm sewer system (MS4) means publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- (16) National pollutant discharge elimination system (NPDES) storm water discharge permit means a permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (17) Non-stormwater discharge means any discharge to the storm drainage system that contains pollutants or hazardous materials or that is a high-risk discharge.
- (18) Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.
- (19) Pollutant means generally, any substance introduced into the environment that adversely affects the usefulness of a resource or the health of humans, animals, or ecosystems or that has the potential to violate water quality standards. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- (20) Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

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- (21) Prohibited discharge means any direct or indirect non-stormwater discharge to the storm drainage system, except as exempted in section 61-56 of this article.
- (22) Storm drainage system means the combined network of the MS4 and those portions of the public infrastructure designed to convey stormwater to the CSS.
- (23) Stormwater means any surface flow, runoff, or drainage consisting entirely of water from any form of natural precipitation.
- (24) Stormwater pollution prevention plan means a document which describes the best management practices and activities to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, the storm drainage system, and/or receiving waters to the maximum extent practicable.
- (25) Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.
- (26) Watercourse means any surface drainage way, natural or manmade, including any creek, culvert, ditch, stream or river which carries stormwater.
- (27) Waters of the state means all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common. These waters also include waters of the United States lying within or adjacent to the state.

(b) Rules of construction. Unless the context specifically indicates otherwise, the construction of terms used in this article shall be as follows:

- (1) "Shall" is mandatory; "may" is permissive or discretionary.
- (2) The singular shall be construed to include the plural and the plural shall include the singular as indicated by the context.
- (3) The masculine shall be construed to include the feminine.

Sec. 61-53. Abbreviations.

For the purposes of this article, the following abbreviations shall have the designated meanings:

CFR—Code of Federal Regulations.

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CSS—Combined Sewer System

EPA—United States Environmental Protection Agency.

MS4—Municipal Separate Storm Sewer System

NPDES—National pollutant discharge elimination system.

USC—United States Code.

Sec. 61-54. Applicability.

This article shall apply to all water entering the storm drainage system and to stormwater discharge entering the sanitary sewer system unless explicitly exempted by the director.

Sec. 61-55. Minimum standards.

(a) The standards set forth herein and promulgated pursuant to this article are minimum standards. Compliance with this article does not ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

(b) This article or any administrative decision made under it does not exempt any person from any other requirements of this code, state or federal laws, or from procuring any required permits, or limit the right of any person to maintain, at any time, any appropriate action, at law or in equity, for relief or for damages against any person arising from the activity regulated under this article.

Sec. 61-56. Prohibitions.

(a) Prohibited discharges.

(1) No person shall discharge or cause to be discharged into the municipal storm drainage system or watercourses any prohibited discharges.

(2) No person shall commence, conduct or continue any prohibited discharge to the storm drainage system except as described as follows:

a. The following discharges are not prohibited discharges:

1. Water line flushing or other potable water sources,
2. Landscape irrigation or lawn watering,
3. Diverted stream flows,
4. Rising ground water,

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5. Ground water infiltration to storm drains,
 6. Uncontaminated pumped ground water,
 7. Foundation or footing drainage (not including discharges from active groundwater dewatering systems),
 8. Discharges from crawl space pumps,
 9. Air conditioning condensation,
 10. Springs,
 11. Discharges from non-commercial washing of vehicles,
 12. Natural riparian habitat or wet-land flows,
 13. Dechlorinated water from swimming pools,
 14. Water from fire fighting activities,
 15. Any water not containing pollutants
 16. Discharges specified in writing by the Director as being necessary to protect public health and safety.
- b. Dye testing is an allowable discharge if written notification is provided to the director prior to the time of the test.
- c. Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of EPA is exempt from discharge prohibitions established by this article 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 drainage system.

(b) Illicit connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drainage system or sanitary sewer system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

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- (3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Sec. 61-57. Monitoring of discharges.

(a) Applicability. This section applies to all dischargers to the city's storm drainage system, including construction activity.

(b) Access to premises and facilities.

- (1) Any person shall allow the director 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.
- (2) The director shall have the right to conduct monitoring and/or sampling of any premises stormwater discharge prior to its entry into the storm drainage system.
- (3) If the director is not allowed to conduct monitoring and/or sampling of a premises stormwater discharge, the director may suspend system access in accordance with the provision of this article.

(c) Monitoring of discharges.

- (1) The director may require a discharger to install monitoring equipment and conduct sampling of its discharges to the storm drainage system as necessary and in a manner acceptable to the director. Sampling and monitoring equipment installed pursuant to this section shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (2) When the director requires a discharger to conduct sampling under this section, all stormwater discharge samples shall be collected in accordance with 40 CFR 122.21(g)(7), as may be amended from time to time, and pollutant analyses shall be performed in accordance with 40 CFR Part 136, as may be amended from time to time. If 40 CFR Part 136 does not specify analytical techniques for the pollutant in question, analyses must be performed in accordance with procedures approved in writing by the director.
- (3) Any discharger required to collect samples pursuant to this section shall maintain the following records and information for all such samples:

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- a. The date, exact place, method and time of sampling;
 - b. The name(s) of the person(s) collecting the samples;
 - c. The date the analyses were performed;
 - d. Who performed the analyses;
 - e. The analytical protocols, techniques, and methods used; and
 - f. The results of such analyses.
- (4) The records of any sampling or monitoring conducted pursuant to this section shall be maintained by the discharger for a period of at least 3 years, unless the discharger has been specifically notified of a longer retention period by the director. The three-year retention period shall be extended automatically for the duration of any litigation concerning compliance with this article.

Sec. 61-58. Requirement to prevent, control, and reduce stormwater pollutants.

Dischargers shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drainage system. Any person responsible for premises, which is, or may be, the source of a prohibited or high-risk discharge or has an illicit connection, may be required to implement, at said person's expense, BMPs to prevent the further discharge of pollutants to the storm drainage system. For those facilities required by state or federal law to have an NPDES stormwater discharge 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 in compliance with the provisions of this section.

Sec. 61-59. Industrial users.

(a) Applicability. The following additional requirements shall apply to all industrial users.

(b) Self-monitoring and self-inspections. The director may require industrial users to conduct self-inspections, self-monitoring of stormwater discharges, and provide reports of such activities to the director in a manner deemed appropriate by the director.

(c) Records maintenance and retention. Industrial users shall maintain the following records and shall retain such records for a period of at least three years, unless the discharger has been specifically notified of a longer retention period by the director. The three-year retention period shall be extended automatically for the duration of any litigation concerning compliance with this article:

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- (1) Date and time, volume and methods of removal and disposal and location of disposal site(s) for solids, sludge, grease, filter backwash, or other pollutants removed in the course of treatment or control of wastewater. Records of receipt by the disposal facility of all such wastes removed from the industrial users premises shall also be maintained;
- (2) Material safety data sheets, incoming hazardous waste manifests, outgoing hazardous waste manifests, records of sludge and other residual waste disposal, sampling records, analytical reports, production records, purchase records, reports submitted to regulatory agencies and other related records;
- (3) Any permit applications, reports, and other records concerning industrial user discharges.

(d) Pollution prevention plans. The director may require industrial users to prepare, submit for review and comment, and implement stormwater pollution prevention plans as set forth in this section. The submitted pollution prevention plans shall be modified in accordance with the director's comments within the timeframe established by the director. Review of such plans shall not relieve the industrial user from responsibility for modifying its facility as necessary to meet the requirement of this article. Such pollution prevention plans shall address the following items:

- (1) Description and location of stored chemicals, raw materials and other significant materials;
- (2) Prevention of exposure of significant materials to precipitation;
- (3) On-site stormwater treatment;
- (4) Spill prevention, including:
 - a. Selection and construction of equipment;
 - b. Equipment operation, maintenance, and inspection procedures;
 - c. Personnel training and supervision; and
 - d. Security measures to prevent vandalism;
- (5) Spill containment;
- (6) Procedures for immediate notification to the water services department of any spill or accidental discharge of significant materials to the storm drainage system, and procedures for follow-up written notification.
- (7) Procedures to prevent adverse impacts of any spill. Such procedures include, but are not limited to: inspection and maintenance of storage

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areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, measures for containing materials, and emergency response procedures and equipment;

(8) Such other practices, facilities, or methods as required by the director.

(e) Monitoring and control of discharges. The director may require industrial users to monitor and control their contribution of pollutants to the storm drainage system. The director may require industrial users to implement BMPs where deemed necessary by the director to achieve the objectives of the city's stormwater management program. The director may establish monitoring requirements, pollutant limitations and other restrictions on industrial user discharges to the storm drainage system. Such monitoring requirements, pollutant limitations, or other restrictions may be as stringent as or more stringent than requirements set forth in an NPDES permit issued by the state or EPA to the industrial user for such discharge, if deemed necessary by the director to achieve the objectives of the city's stormwater management program.

Sec. 61-60. Industrial users outside of city.

The city may enter into agreements with other jurisdictions to require industrial user sampling, obtain information, and monitor and control the quality of indirect discharges to the city's storm drainage system from industrial users located outside the city.

Sec. 61-61. Industrial or construction activity discharges.

(a) Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required, in a form acceptable to the director, prior to discharge to the storm drainage system.

(b) In addition to subsection(a) above, management of stormwater and stormwater discharges resulting from construction activity shall be conducted in accordance with City Code.

Sec. 61-62. Suspension of system access.

(a) Suspension due to prohibited discharges in emergency situations. The director may, without prior notice, suspend storm drainage system discharge access for a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system or waters of the state. If a person fails to comply with such suspension order, the director may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system or waters of the state, or to minimize danger to persons.

(b) Suspension due to the detection of prohibited discharge or illicit connection.

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- (1) Any person discharging to the storm drainage system in violation of this article may have their storm drainage system access suspended if such suspension would abate or reduce a prohibited discharge.
- (2) Any person having an illicit connection to the sanitary sewer system in violation of this article may have their sanitary sewer system access suspended if such suspension would abate the prohibited discharge.
- (3) The director shall provide notification of the proposed suspension of storm drainage system access prior to such suspension. Any person receiving such notice may petition the director for a reconsideration and hearing.

(c) Suspension due to refusal to allow monitoring and/or sampling.

- (1) Any person who does not allow the director to conduct monitoring and/or sampling of any premises stormwater discharge before the discharge enters the storm drainage system may have their storm drainage system access suspended.
- (2) The director shall provide notification of the proposed suspension of storm drainage system access prior to such suspension. Any person receiving such notice may petition the director for a reconsideration and hearing

(d) No person shall reinstate storm drainage system access to premises suspended pursuant to this section, without the prior approval of the director.

Sec. 61-63. Notification of spills.

(a) Notwithstanding other requirements of law, notification must be made 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 prohibited discharges into stormwater, the storm drainage system, or waters of the state. Said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

(b) In the event of a release of hazardous materials, a person responsible for a facility or operation, or responsible for emergency response for a facility or operation shall immediately, but no later than two hours after discovery of the release, 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 director in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the director within three business days of the phone notice. Such notification shall be in addition to any other notification responsibility mandated by state or federal law.

(c) If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain, on-site, a written record of the discharge and the actions taken to prevent its recurrence. Such

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records shall be retained for at least three years and be made available to the director upon request.

Sec. 61-64. Notice of violation.

Whenever the director shall have determined that a violation of this article has occurred on any premises within the city's corporate limits, he shall serve a written notice of violation upon the owner or occupant having control thereof, or their agent, to abate such violation. The notice of violation shall:

- (1) Be in writing.
- (2) State the nature of such violation and that such condition constitutes a violation.
- (3) Describe the premises where the violation is alleged to exist or to have been committed.
- (4) Specify a period of 15 days for the abatement of the violation and that owner or occupant shall submit documentation of the abatement to the director within that period.
- (5) State that, unless such violation is abated without unnecessary delay, it may be abated by the city and the costs of such abatement may be specially assessed and shall be deemed a personal debt against the owner and constitute a lien against the premises from which abated.
- (6) State that failure, neglect or refusal to abate such violation within 15 days specified renders the owner or occupant prosecutable in municipal court, and, upon a finding of guilty, punishable by a fine of not more than \$500.00 or imprisonment of not more than 180 days, or by both such fine and imprisonment. Each day of continuing violation shall be considered a separate offense.
- (7) Be served upon the owner or occupant of the premises by delivery to him personally or by leaving such notice at his usual place of abode with a member of the family over the age of 15 years, or by mail addressed to the owner, occupant or agent. If a person to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such person by posting the notice on or about the premises described in the notice, or by causing such notice to be published in a newspaper of general circulation. If the owner or occupant is a corporation, notice shall be served upon an officer, a person in charge of any local business office, or its registered agent or any other agent authorized by appointment or required by law to receive service of process.

Sec. 61-65. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of director. The notice of appeal must be received within ten days from the date of the notice of violation in a form prescribed by the director. The director shall hold a hearing on each duly filed appeal and decide whether to affirm, amend or reverse the notice of violation appealed. The decision of the director or his designee shall be final.

Sec. 61-66. Abatement.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 15 days of the decision of the director, then representatives of director may take any and all measures necessary to abate the violation and/or restore the premises.

Sec. 61-67. Cost of abatement of the violation.

Within 60 days after abatement of the violation by the city, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the director or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Sec. 61-68. Violations deemed a public nuisance.

Any condition caused or allowed to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is hereby declared to constitute a nuisance.

Sec. 61-69. Penalty.

(a) Any person convicted of a violation of this article shall be punished for that violation by a fine of not less than \$50.00 but not more than \$500.00, or by imprisonment of not more than 180 days, or by both such fine and imprisonment.

(b) Every day that a violation continues shall be considered a separate offense.

Sec. 61-70. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law or in equity. The director has the power to seek any available remedy, at his discretion.

Secs. 61-71—61-99. Reserved.

CHAPTER 61 - ARTICLE IV. - LEVEES

Sec. 61-100. Council may establish levee districts.

Sec. 61-101. Director of water services to devise system of levees.

Sec. 61-102. Director of water services to supervise.

Sec. 61-103. Maintenance tax.

Sec. 61-104. Methods of payment; special assessments.

Sec. 61-100. Council may establish levee districts.

The council may establish levee districts within the city limits for the construction and maintenance of levees, dikes, drains and other works thereon, and roadways thereon and connected therewith, for the protection of the lands within such levee districts from floods or overflow of waters, and for the acquisition of lands, rights-of-way, easements and other rights required by the city, by purchase, condemnation or otherwise.

Sec. 61-101. Director of water services to devise system of levees.

The director of water services shall have the power when any such levee district has been established by the council, to devise a system of levees, dikes, drains, roadways, and other works, for the protection from floods or overflow, of lands within such levee district, and to select and designate lands, easements and rights-of-way to be used and appropriated for levees and other works necessary or convenient for the use of said district, and recommend to the council the adoption of such system and the acquisition of such lands and other rights and the construction of such works.

Sec. 61-102. Director of water services to supervise.

The construction of all improvements and all work done, of every kind, under the authority of this article, shall be under the supervision and direction of the director of water services, and the director of water services shall have power to superintend, control and manage the operation and maintenance of all such works and improvements as may be had or constructed.

Sec. 61-103. Maintenance tax.

The real estate, inclusive of improvements thereon constituting a part thereof, in any levee district or districts, may be specially assessed annually for maintaining and repairing any levees, dikes, drains, roadways, or other works constructed therein or thereon, and such assessments may be made according to valuation and assessment for taxation of real estate in such levee district or districts made for general city purposes. Real estate which is not listed on the assessment books used for taxation for general city purposes, may by ordinance of the council be listed and valued by the city for purposes of this section. Such annual assessments authorized by this section shall never exceed in any one year one mill upon each dollar of valuation as shown on such assessment books. Assessments under this section shall constitute the same liens upon the real estate, and when delinquent shall be subject to collection in the same manner, as provided for other public improvement special assessment projects under state law, the City Charter, and the Code of Ordinances.

Sec. 61-104. Methods of payment; special assessments.

The acquisition of lands, rights-of-way and other rights and the construction of the works and improvements provided for or authorized in the foregoing sections may be paid for in whole or in part out of the proceeds of bonds, the city's general funds or other available funds, or in whole or in part from and by special assessments upon real property, exclusive of improvements, located within the city and within the district, as prescribed by ordinance, deemed benefited by the proposed acquisition and construction of such improvements. The method of assessment shall be established by ordinance. Assessments under this section shall constitute the same liens upon the real estate, and when delinquent shall be subject to collection in the same manner, as provided for other public improvement special assessment projects under state law, the City Charter, and the Code of Ordinances.

Chapter 78 - ARTICLE I. - IN GENERAL

- Sec. 78-1. Reserved.
- Sec. 78-2. Water service generally.
- Sec. 78-3. Unauthorized use of water or water system facilities.
- Sec. 78-4. Water rates established; collection of charges
- Sec. 78-5. Residential meter rate.
- Sec. 78-6. General meter rate.
- Sec. 78-7. Metered service required; exceptions.
- Sec. 78-8. Fire protection rates.
- Sec. 78-9. Temporary service rate.
- Sec. 78-10. Suburban meter rate.
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- Sec. 78-12. Bills for metered water service.
- Sec. 78-13. Inclusion of sewer service and stormwater fee charges on water bill.
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- Sec. 78-14.1. Suit additional to other remedies.
- Sec. 78-15. Termination of service for failure to pay charges.
- Sec. 78-15.1. Property owner liability for water and sewer services; delinquent charges; liens.
- Sec. 78-16. Charges for termination and restoration of service.
- Sec. 78-17. Billing for services under fire protection rate.
- Sec. 78-18. Bills for temporary service.
- Sec. 78-19. Charge for water temporarily unmetered.
- Sec. 78-20. Bill payment guarantees.
- Sec. 78-21. Service connections to mains.
- Sec. 78-22. Water service maintenance.
- Sec. 78-23. Water service disconnection.
- Sec. 78-24. Water meters generally.
- Sec. 78-25. Water meter settings.
- Sec. 78-26. Tests and inspections of water meters.
- Sec. 78-27. Sealing of water meters.

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Sec. 78-28. Water department price schedules; permits for work on water service.

Sec. 78-29. Right of access of employees of water department.

Sec. 78-30. Grounds for discontinuance of service.

Sec. 78-31. Water hydrants.

Sec. 78-32. Furnishing of water to city departments.

Sec. 78-33. Tampering with mains, hydrants or appurtenances; obstruction of hydrants.

Sec. 78-34. Obstructing use of public drinking fountain.

Sec. 78-35. Authority to prescribe additional rules and regulations.

Sec. 78-36. Penalty.

Secs. 78-37—78-60. Reserved.

Sec. 78-1. Reserved.

Sec. 78-2. Water service generally.

(a) *Availability.* Water may be taken by any applicant for a license to use water, upon approval by the water services department, who shall first and at all times thereafter comply with the rules and regulations of the water services department and with all ordinances of the city relating in any way to the purchase of water and to facilities and conditions related to its use, and who shall pay for such water according to the established rates.

(b) *Notice to initiate, discontinue or transfer service.* All notices to the city's water services department to initiate, discontinue or transfer service shall be in writing. The city will attempt to act on oral orders taken in person or over the telephone by an employee of the water services department, but assumes no liability for failure to act on the oral orders.

Sec. 78-3. Unauthorized use of water or water system facilities.

No person shall use water from any part of the waterworks system without a license, permit or other authority from the water services department, or shall restore service from any water service or from any fire hydrant when the service therefrom has been discontinued by the water services department. No person, except a licensed master plumber as defined by the city building code in the proper exercise of authority granted by the rules and regulations described in section 78-35, shall cause water to be turned on or turned off from any water service or fire hydrant or any other part of the waterworks system. This shall not apply to the use of fire hydrants by the employees of the fire department and other city departments in the proper exercise of their duties.

Sec. 78-4. Water rates established; collection of charges

Rates for water purchased from the city waterworks system are hereby established, and the director of the water services department is hereby directed and empowered to charge and collect on behalf of the city for water so purchased in accordance with the provisions of the article. Final bill balances under \$25.00 may not be collected.

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Sec. 78-5. Residential meter rate.

For all water purchased for use within the city by any residential accountholder, whether owner or occupant (also referred to in this Chapter as "customer" or "consumer"), a total charge, consisting of the sum of a service charge and a commodity charge, shall be computed monthly for each billing period, as prescribed under the general meter rate stated in section 78-6.

Sec. 78-6. General meter rate.

For all water purchased for use wholly and exclusively within the city by any accountholder the total charge shall be the sum of the service charge and the commodity charge as follows:

(a) *Service charge.* The service charge is a charge per meter or service connection, to cover, in part, the cost of meter reading, meter maintenance, billing, collecting, accounting services, system availability and readiness to serve the customer, and shall be prorated per day during the billing period and shall apply whether or not any water is used; the service charge shall be based on meter size and billing frequency as follows:

Meter Size

(inches)	Billed Monthly
5/8	\$ 10.85
3/4	11.70
1	14.30
1½	17.80
2	27.40
3	93.50
4	118.00
6	176.00
8	254.00
10	333.00
12	393.00

(b) *Commodity charge.* The commodity charge shall be based on the total volume of water purchased by the accountholder as shown by all water meters connected to one or more water systems serving contiguous properties of the accountholder, where such properties are managed as a single enterprise that is not separated by a public thoroughfare, and shall be as follows per month for metered water:

(1) *Ordinary commodity charge.*

First 600 cubic feet at \$3.67 per 100 cubic feet

Next 4,400 cubic feet at \$4.08 per 100 cubic feet

Next 995,000 cubic feet at \$3.19 per 100 cubic feet

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Over 1,000,000 cubic feet at \$2.25 per 100 cubic feet

- (2) Seasonal off-peak commodity charges. For industrial customers with peak demand in the winter season:

All usage at \$2.34 per 100 cubic feet;

The Director of Water Services is hereby authorized to promulgate regulations to be used for determining the applicability of this subsection.

(c) Manual meter reading charge. The service charges set out in this Chapter assume use of the city's automatic meter reading system. In cases where the automatic meter reading system could not be installed due to action or inaction on the accountholder's part, including lack of access to meter, improper meter setting, accountholder refusal, or other reasons, a charge of \$16.00 for manual meter reading will be applied each time that a meter is to be read.

- (d) Definitions (as used in this section).

- (1) Residential accountholders shall refer to all one- and two-family dwelling water service accounts
(2) Commercial and industrial customers shall refer to all water service accounts other than one- and two-family dwellings.
(3) "Month" or "monthly" shall refer to a time period of 30 days.

Sec. 78-7. Metered service required; exceptions.

All water service shall be through metered water service, except as provided in sections 78-8 and 78-9.

Sec. 78-8. Fire protection rates.

(a) The rate for an unmetered water service connection to hydrants, hose connection or sprinkling systems purchased and used solely and exclusively for fire protection purposes, including all water used for fire protection shall be as follows:

Table with 2 columns: Size of Connection, Rate Per Annum. Rows include 4-inch and less (\$91.00), 6-inch (268.00), 8-inch (572.00), 10-inch (1028.00), 12-inch (1662.00), 16-inch (3541.00).

(b) The size, location and arrangement of any fire protection services are subject to the approval of the director of the water services department.

(c) All meters, valves and hydrants controlling or in connection with such fire protection services shall be sealed by the water services department. A fee of \$150.00

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shall be charged for each meter, valve or hydrant requiring resealing in the absence of evidence that the meter, valve or hydrant seal was broken in operation against a fire or in operations pursuant to system testing by a fire underwriting agency and properly certified by such testing agency.

(d) Direct connections between the fire protection and drain piping on all premises are not permitted, and drawings which show the location of all fire protection piping may be required by the water services department. The repeated, unauthorized breakage of seals on any premises may be taken as evidence that water is being used without authorization; and in such case the water services department may require the installation of a meter designed for fire protection and assess charges therefore in accordance with section 78-6

(e) Fire protection services shall be billed to the owner of record of the real property.

Sec. 78-9. Temporary service rate.

There shall be a temporary service rate for unmetered water for temporary purposes as follows:

- (1) *Swimming pools.* The service fee for filling swimming pools shall be \$425.00 plus payment of the commodity charge for the water used to fill the pool. In addition, a deposit shall be required for the hydrant meter assembly.
- (2) *Other temporary purposes.* For water purchased and delivered through a metered service or connection or fire hydrant for other purposes of a temporary nature, the charges therefore and the manner in which the service is to be rendered shall be prescribed for each service contract by the director of the water services department. Such charges shall conform generally to the cost of water as fixed by the applicable meter rate, plus the cost of any labor or materials required to render the temporary service.

Sec. 78-10. Suburban meter rate.

(a) For any and all water purchased wholly or partially for use outside the city by any customer, a total charge consisting of a service charge, a commodity charge, a re-pumping charge where applicable, shall be computed for each billing period and shall be as follows:

- (1) *Service charge.* A service charge, prorated per day during the billing period based on meter size, with such charge to be applied whether or not any water is used, shall be charged as follows:

Meter Size

(inches)	Billed Monthly
5/8	\$ 12.10
3/4	13.05

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1	15.95
1½	19.80
2	30.40
3	96.00
4	121.50
6	181.00
8	260.00
10	348.00
12	409.00

The service charges as established in this subsection may be superseded by any contract between the city and any other public water supply which provides for an interchange agreement.

(b) *Commodity charge.* A commodity charge per month, based on the total volume of water purchased by the customer as shown by all water meters connected to one or more water systems serving the customer’s premises, shall be charged as follows:

- (1) *Retail customers.* For customers purchasing water for use wholly by the customer:

First 5,000 cubic feet at \$3.45 per 100 cubic feet

Over 5,000 cubic feet at \$3.07 per 100 cubic feet

- (2) *Wholesale customers.* For customers purchasing water for resale:

Unrestricted \$1.95 per hundred cubic feet

Restricted \$1.89 per hundred cubic feet

Wholesale Customers shall be classified as restricted or unrestricted based on water supply contract terms between the city and other contracting entity.

(c) *Repumping charge.* A repumping charge based on the quantity of purchased water repumped shall be charged to wholesale suburban customers only as follows:

- (1) From the pumping station at 75th and Holmes Street; from the pumping station at Highway AA near the Village of Waukomis in Platte County, Missouri; from the Blue Ridge Pumping Station at 67th Street and Blue Ridge Boulevard; from the pumping station at Englewood Road and North Oak Trafficway; from Arrowhead Pumping Station at NE 75th and Arrowhead Trafficway, and from the South Terminal Pump Station at Ward Road and Persells, per 100 cubic feet, \$0.18.
- (2) From the pumping station at 131st Street and Prospect Avenue; from the High Grove Road Pumping Station, and from the Platte County Booster Pump Station at Camden Point Highway E and Interurban Road, per 100 cubic feet, \$0.25.

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(d) *Definition.* The term Month or Monthly, as used in this section shall refer to a time period of 30 days.

(e) *Applicability.* Rates set forth in this section may not be applicable where such rates are established by existing or future contracts.

Sec. 78-11. Meter reading and billing generally.

(a) Water meters serving premises having monthly water consumption averaging less than 50,000 cubic feet of water per month, or when estimated by the director of the water services department to approximate that figure, may be read and bills for services may be rendered monthly, bimonthly or quarterly, at the discretion of the director.

(b) Water meters serving all other premises shall be read and bills for services shall be rendered monthly.

Sec. 78-12. Bills for metered water service.

Bills for metered water service shall be mailed to the accountholder. The bill shall include:

- (1) The meter readings showing the amount of water used and its cost;
- (2) The last meter reading date and days of service;
- (3) All bills are due and payable on the billing date; and
- (4) The delinquent date, which shall be not less than ten days after the billing date.

Sec. 78-13. Inclusion of sewer service and stormwater fee charges on water bill.

All charges for sanitary sewer service shall be included on the water bill. Stormwater fee charges may be included on the water bill, or may be billed separately. The delinquent date for sanitary sewer service and stormwater fee charges shall be the same as for the water bill.

Sec. 78-14. Late payment service charge for delinquent bills.

A late payment service charge in the amount of five percent of the amount of the unpaid delinquent balance shall be applied to all metered water service, sanitary sewer service and stormwater fee bills remaining unpaid after the delinquent date. The director of water services may waive or adjust late payment service charges for a party that enters into an agreement with the city for the payment of unpaid water, sanitary sewer and stormwater charges.

Sec. 78-14.1. Suit additional to other remedies.

(a) In addition to any and all remedies provided in the Charter and this chapter, the city shall have the power to enforce the collection of unpaid water, sanitary sewer and stormwater charges, with all interest, costs and penalties thereon, by suit brought in the name of the city in any court of competent jurisdiction.

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(b) Ten percent of the amount of the judgment shall be added as attorney's fees in every proceeding for the collection of delinquent charges under this chapter, to be added and collected in the same manner as other costs in the case.

Sec. 78-15. Termination of service for failure to pay charges.

Water service, sanitary sewer service or combined water and sanitary sewer service shall be subject to termination without further notice if a bill for any or all of the above services remains unpaid 20 days after the delinquent date. However, the director of water services may order termination at any time upon a specific finding that payment for continued service is unlikely to be received. Any partial payment received may be applied proportionally to each of the applicable water service, sanitary sewer service and stormwater service accounts.

Sec. 78-15.1. Property owner liability for water and sewer services; delinquent charges; liens.

(a) Water and sanitary sewer services shall be deemed to be furnished to both the occupant and the owner of the premises receiving either or both of such services.

(b) Any delinquent charges shall be chargeable against any deposit held by the water services department for service to such premise.

(c) Any charges for metered water service pursuant to this chapter, for sanitary sewer service pursuant to chapter 60 or for stormwater fee pursuant to chapter 61, shall, if not paid by the due date, become delinquent and shall bear interest from the date of delinquency until paid. To the extent authorized by State statute, delinquent charges shall be a lien upon the land so charged for such service, services or fee, upon the filing of a notice of delinquency with the recorder of deeds in the county where the land is situated. The lien hereby created may be enforced by suit or foreclosure.

(d) The director of water services is authorized to file, on behalf of the city, the notice of delinquency as provided in subsection (c) of this section, subject to the following limitations:

- (1) For one- and two-family residences, if the account is three months delinquent or the total amount of such delinquency is \$500.00 or more;
- (2) For all other service classifications, if the account is three or more months delinquent, or the total amount of such delinquency is \$1,000.00 or more.
- (3) The limitations provided by this subsection shall not prohibit the director of water services, or the council, from pursuing other remedies provided by statute or ordinance.

(e) Upon the written request of any owner whose land has become subject to a lien as provided in subsection (c) of this section, within 30 days of the filing of such lien, the director of the water services department shall hold a hearing to ascertain all facts in the matter. The owner requesting such hearing shall be entitled to all rights applicable to a contested case under state administrative review and procedure law. The director shall

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prepare written findings and conclusions determining whether the amount of the charges was properly computed, whether such charges were delinquent, or whether the lien should be removed or released for any factual or legal reason. If, after hearing, the director finds and concludes that the lien should be removed or released, the director shall take any necessary action to remove or release the lien from the property. The owner of such land must pay in advance a \$75.00 fee, to cover in part the cost of hearing the case, and preparing the written response. If upon finding that the lien should be removed or released the fee should be returned or refunded to the property owner requesting the hearing.

Sec. 78-16. Charges for termination and restoration of service.

(a) The following charges shall be made for the termination of service after failure to pay for water service, after failure to have the meter readily accessible for reading on the regularly scheduled route on more than two successive occasions, after receipt of an accountholder request for termination, or for any of the grounds set forth in Section 78-30

Termination of service \$100.00

Termination of service when the service was not established as authorized by the Code of Ordinances 200.00

Termination of service when the service has been restored but not by the water services department 200.00.

For each subsequent termination of service when the service has been restored but not by the water department 500.00.

The term "termination of service" shall not be construed to mean an immediate transfer of service from one accountholder to a subsequent accountholder.

(b) Upon finding that water service, sanitary sewer service or combined water and sanitary sewer service has been established for a location in a manner not authorized by this Code of Ordinances, the director of water services is authorized to take appropriate action, including removal of taps to the water or sewer main, to ensure termination of service. The following charge shall be made for restoration or establishment of service under such circumstances:

Restoration of terminated service after the water services department has removed a meter or a tap to the main 550.00

Sec. 78-17. Billing for services under fire protection rate.

Water consumers served under the fire protection rate shall be billed annually in advance for this service. These bills shall be due within 15 days and delinquent 15 days after the due date. The service to premises having delinquent bills for service under these rates may be discontinued without further notice.

Sec. 78-18. Bills for temporary service.

Contracts for service under the temporary service rate for water delivered through a metered or unmetered service or hydrant connection for purposes of a temporary nature shall be accompanied by a cash deposit, and the accountholder shall make such additional cash deposits as required to maintain the deposit in excess of the estimated cost of the service to be rendered. When a temporary service contract is terminated, the director of the water services department shall refund the amount remaining on deposit after all charges for service have been deducted, including any charges for the repair or servicing of the hydrant or other city property.

Sec. 78-19. Charge for water temporarily unmetered.

The director of water services will promulgate rules for back billing consumers when there were problems with the meter, a meter was missing or other difficulties with the metering equipment.

Sec. 78-20. Bill payment guarantees.

(a) *Required amount.* The director of the water services department is authorized and directed to require each accountholder, before taking water under the general meter rate, the suburban water rate (except as provided for in water purchase contracts) and the fire protection rate, to make a cash deposit against which the water services department may charge any unpaid bills for the following: water service; meter, hydrant or valve resealing; termination of service; meter repair; sanitary and stormwater sewer service; or other authorized charges. For customers estimated to use less than 1,000 cubic feet per month, the deposit shall be \$70.00. For customers estimated to use more than 1,000 cubic feet per month, the deposit shall be not less than the estimated cost of water and sewer service for two billing periods. Either interest shall be paid on cash deposits as required by state statute or deposits held by the director of the water services department shall be refunded after two years.

(b) *Additional deposit.* An additional deposit above the amount required by subsection (a) of this section, not to exceed the estimated cost of four months' water, sanitary and stormwater sewer service, may be required by the director of the water services department for any customer whose account reflects a history of repeated delinquencies. Failure to provide the additional deposit authorized in this subsection shall constitute grounds for discontinuance of water service.

(c) *Refund; waiver of deposit.* All bill payment guarantees taken shall be held for at least two years or until the account is terminated. The director of the water services department may waive deposits on additional accounts for an existing accountholder with known good credit. In cases where an accountholder has multiple properties or is between tenants, the deposit may be waived when the accountholder credit rating is good.

(d) *Transfer of service.* When an accountholder transfers service from one location to another, the director of the water services department may waive any additional deposit.

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(e) *Termination of service.* When a contract for water service is terminated, the director of the water services department shall apply the deposit against any unpaid bills associated with the contract, and if the amount is \$10.00 or more, shall refund the remainder of the deposit to the depositor. Refunds in an amount under \$10.00 will be made only upon written request of the customer.

(f) *Bond in lieu of cash deposit.* In lieu of a cash deposit, the director of water services department may accept, as a bill payment guarantee, a corporate surety bond by a surety company authorized to do business in the state, in the amount of the deposit required but not less than \$1,000.00. Such surety bond shall be subject to the approvals of the city attorney as to form and legality; of the director of the water services department as to the amount, terms and conditions of the bond; and of the director of finance as to the qualifications of the surety. The surety bond shall be filed with and kept by the director of the water services department.

(g) *Commercial accounts.* In addition to any bill payment guarantee, all commercial accounts shall enter into and execute a contract for service, on a form provided by the water services department, specifying the parties responsible for payment. These parties shall remain responsible for all water used until notification is received in writing of the date service is to be terminated.

Sec. 78-21. Service connections to mains.

(a) *Payment of costs.* The cost of water service connections from the account holder premises to the water services department's mains shall be borne by the owner of the premises, including the main taps or other means of connections at the main, in accordance with the charges and other provisions for such work set forth in section 78-28 and other applicable rules and regulations.

(b) *Permit required; persons authorized to do work.* Water services shall not be installed except by permit issued by the water services department on the basis of an application for such permit made by the owner of the premises to be served or an authorized agent. The application shall show the name of the owner, the name of the licensed master plumber who is to install the service, the legal description and the street location of the premises to be served, and the sizes and dimensioned location of the proposed water services. All work or water services not done by city employees shall be done by licensed master plumbers as defined by the city building code, except that a licensed building wrecker may obtain a water services department permit to disconnect water service at a structure to be wrecked, and then disconnect the water service line serving such structure being wrecked from the main, subject to water services department inspection of the manner, method and quality of the disconnection, which shall conform to the requirements of the water services department.

(c) *Expiration of permits.* Every permit issued by the water services department under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or, if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be

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recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that any suspension or abandonment has not exceeded one year. A permit may be extended by the water services department for a period not to exceed six months upon written request from the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken.

Sec. 78-22. Water service maintenance.

(a) *Responsibility for maintenance.* The owner of the premises served shall maintain the water service against leakage from but not including the curbstop or first shutoff valve to the premises served. All such maintenance of services shall be done by licensed master plumbers as defined by the building code under a water service permit issued by the water services department. The water services department shall maintain the service from the main to and including the curbstop and curb box or first shutoff valve and the valve box. All meter tiles and pits are the property of the owner of the premises and shall be maintained by the owner.

(b) *Repairs.* In case a water service is found to be leaking on the owner's side of the curbstop or first shutoff valve, the owner of the premises served may be required, on five days' notice, or in a shorter time if public safety or welfare is affected, to have the service repaired. If the repairs are not made in the time prescribed in the notice, the water services department may stop the loss of water by discontinuance of service. Service shall be restored in such case only after the repairs have been made and the charges for work done by the water services department have been assumed by the owner or occupant of the premises served, or an authorized agent.

Sec. 78-23. Water service disconnection.

(a) *Disconnection when building razed or moved.* If a building is razed or moved, the water service to the premises shall be disconnected at the main. The responsibility and expense for such disconnection shall rest with the owner of the land upon which the building is located.

(b) *Disconnection for unauthorized use of water.* The water services department is hereby authorized to disconnect a water service at the main if deemed necessary to prevent the unauthorized use of water, in which case the owner of the property served by the connection shall reimburse the water services department for the expense of the disconnection.

(c) *Reuse of service.* In those cases where a building is razed or moved, a copper, cast iron or ductile iron service to a property may remain connected to the main for a period of one year on the authority of the director of the water services department and subject to his approval of the written application of the property owner indicating that the service will be used again within one year and also providing that the property owner place a cash deposit with the water department equivalent to the cost to disconnect the service line at the main. The deposit shall be refunded if the service line is reused. If the

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service line is not reused in the time period provided, the deposit shall be used to pay the cost of disconnecting the service line from the main.

(d) *Reconnection.* Services disconnected from the main may be reconnected to the main, subject to pertinent rules and regulations of the water services department, provided a permit for such reconnection is obtained and such reconnection shall be made solely at the expense of the owner of the premises serviced.

(e) *Other service disconnections.* A water service connection to premises not having a contract for water service may be disconnected at the main by the water services department, and the cost of the disconnection billed to the owner of the premises, if:

- (1) The service line has not been used under a water service contract for one year; or
- (2) There is a leak on a service to a vacant building, dwelling or property in those situations where public safety or welfare may be affected.

Sec. 78-24. Water meters generally.

(a) *Ownership; installation.* All water meters installed for original service for any premises shall be city owned meters installed and connected at the expense of the owner of the premise served. The connection charge shall be based on the current price of the meter installed and related appurtenances plus the current cost of such setting. Appurtenances include but are not limited to all components necessary for the reading and transmission of water usage.

(b) *Maintenance and replacement.* All water meters shall be maintained and replaced in accordance with section 78-25

(c) *Authority of water services department.* The water services department may purchase meters for resale to prospective consumers and may prescribe conditions under which meters may be purchased elsewhere for installation on services connected to water services department mains.

(d) *Determination of consumption when remote register does not operate properly.* If the remote register or other outside reading device does not operate properly, the reading on the actual meter located inside the premises shall determine the consumption on which the water and sewer commodity charges are computed.

Sec. 78-25. Water meter settings.

Water meter settings shall allow free and nonhazardous access to the meter for reading, removal, inspection or replacement, and shall be subject to the approval of the director of the water services department. All meters shall be set by the water department and charges therefor shall be assessed against the owner of the premises served as provided in section 78-28. Meters shall be set after a payment has been made to the director of the water services department to cover the cost of connection charge based upon size of meter. Meters larger than one inch may be purchased by the owner in accordance with water services department specifications and the connection charge will

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be adjusted according to the current published list of meter charges as maintained by the water services department. If the meter is purchased by the owner it shall become the property of the city upon installation, and the maintenance and replacement of the meter shall become the responsibility of the water services department under normal operating conditions. The acceptance of the title or of the care of the water meter by the water services department as provided in this section or on city meters set under the connection charge shall not, however, relieve the accountholder of the responsibility for loss of meter, improper setting, heat damage, freezing, vandalism or consumer fault or negligence.

Sec. 78-26. Tests and inspections of water meters.

(a) *Authority of city; payment of costs.* The water services department shall cause water meters to be removed from service for test and inspection at such intervals as required to promote the accuracy of their registration. The cost of such removal, test, inspection, repairs and replacement shall be borne by the city.

(b) *Test at consumer's request.* The removal of a water meter for test and inspection may be requested by the accountholder served by the meter. If a meter so removed by accountholder order is found by tests to be over-registering the water metered by more than two percent, the cost of removal, test and replacement shall be borne by the water services department; otherwise, the cost thereof shall be borne by the accountholder.

Sec. 78-27. Sealing of water meters.

Water meters, when set, will be sealed in position and against access to the dials or mechanism. These seals shall be broken only by employees of the water services department in the proper exercise of their duties or by a licensed master plumber as defined in the building code. A charge of \$165.00 shall be made for the replacement on any meter of a seal that has been broken in any other manner.

Sec. 78-28. Water department price schedules; permits for work on water service.

(a) *Price schedules.* The director of the water services department is hereby empowered and directed to prepare and maintain a schedule of prices governing the connection charge, sale, removal, test, repair and replacement of water meters; sale and operation of fire hydrants; and tapping charges. A copy shall be available for public inspection at the water services department director's office at any reasonable time.

(b) *Permit required for installation or maintenance of services.* Water services shall not be installed or maintained except by permit issued by the water services department on the basis of an application for such permit made by the owner of the premises or his authorized agent as provided under sections 78-21 and 78-22

(c) *Types of permit; permit fee.* The director is hereby authorized to issue the following kinds of permits and to charge \$82.50 per each such permit, where:

- (1) Taps are to be made and new services are to be installed.

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- (2) An existing service is to be altered, extended, renewed or repaired from the first valve to the building improvement or fixtures, or appurtenances added thereto or detached therefrom.
- (3) An existing service is to be abandoned and replaced with a single larger service that requires a larger tap.
- (4) An existing service is disconnected at the main or is otherwise abandoned.

(d) *Duplicate permits.* Whenever the original permit is lost, a duplicate permit must be secured. A charge of \$10.00 will be made for the issuance of a duplicate permit.

(e) *Permit controls.* Water service permits shall be issued and controlled in accordance with water services department rules and regulations.

(f) *Plan review.* The director is hereby authorized to establish the following fees and charges for water service plan reviews:

- (1) A fee of \$100.00 for water service plan reviews involving no more than ten service connections.
- (2) For water service plan reviews involving more than ten service connections, an additional charge of \$11.00 for each connection greater than the ten connections included in the charge referenced in subsection (f)(1).
- (3) A charge of \$60.00 if plans are rejected and must be resubmitted for review due to deficiencies in the original plan.

Sec. 78-29. Right of access of employees of water department.

Any employee of the water services department in the proper exercise of his duties shall have access at all reasonable hours to any premises served with water, and such access shall include the right to read, remove and replace meters, to inspect, make or correct meter installations and to make such inspections or tests as are necessary to determine if water department rules and regulations are being violated or if water is being wasted or is being used improperly or without permit or license.

Sec. 78-30. Grounds for discontinuance of service.

The water services department may discontinue service to any accountholder for any one of the following reasons:

- (1) Failure to pay a water service, meter, hydrant or valve resealing, restoration of service or meter repair bill within the time specified in sections 78-11 through 78-18
- (2) Failure to maintain an adequate cash deposit or a satisfactory bond guaranteeing the resealing, restoration of service, or meter repair payment or water service, meter, hydrant or valve bills as required in section 78-20

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- (3) Failure to obtain a permit from the director of city planning and development to do plumbing work on premises taking water service as required in the building code or failure to obtain a permit from the water services department to repair or install a water service as required by the water services department's rules and regulations.
- (4) Any waste of water or unnecessary or unlicensed use of water.
- (5) Unapproved cross connection of water facilities with any other source of water supply.
- (6) Vacation of the property served without notice to the water services department.
- (7) Failure to provide free and nonhazardous access to the meter for reading, removal, inspection or replacement.
- (8) Failure to provide free access to premises for the purpose of determining whether water is used for refrigeration or air conditioning, and, if so, of obtaining a description of the equipment installed or used for such purpose.
- (9) Failure to maintain an approved meter setting.
- (10) Failure to provide a replacement for a privately owned water meter condemned by the water services department as unfit for further service, or a water services department-owned water meter stolen or destroyed while in service on the premises.
- (11) Violation of any of the water services department's rules and regulations.
- (12) Any act that would make it possible for the water services department to be defrauded thereby.
- (13) Violations of chapter 60, article IV of this Code, as specifically provided in sections 60-186 and 60-188
- (14) Upon certification by the director of neighborhood and community services, as provided in chapter 48 of this Code, that discontinuation of service is necessary to abate a nuisance as defined in chapter 48 of this Code.
- (15) Pursuant to an agreement with a sewer provider for non-payment of a sewer bill.

Sec. 78-31. Water hydrants.

(a) *Use generally; permit for use.* Water hydrants shall be operated only by the employees of the fire department and of the water services department in the proper exercise of their duties, except that the water services department may issue permits allowing the use of hydrants by other persons or other departments of the city. Such

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permits shall be issued by the director of the water services department subject to the approval of the director of the water services department. The permit shall state the basis of charge according to the applicable ordinance for water service and the conditions under which the hydrants may be operated. Such permit shall be cancelable on immediate notice to the holder thereof by the director of the water services department.

(b) *Key required.* Hydrants shall be operated only with hydrant keys obtained through the water services department and properly identified by number. A deposit of \$100.00 shall be made for each hydrant key.

(c) *Violations.* It shall be unlawful for any person other than as provided in this section to operate a water hydrant without first obtaining a permit provided for in this section. Any person so operating a water hydrant without such permit or who violates any of the conditions of the permit shall be deemed in violation of this section, and upon conviction thereof shall be fined not less than \$100.00 and not more than \$500.00 for each offense, and each day of the continuance of such offense shall constitute a separate offense.

Sec. 78-32. Furnishing of water to city departments.

(a) *Generally; charges.* Water shall be furnished to departments and offices of the city other than the water services department, for use in the service of city-owned or city-operated buildings, parks, swimming pools, other pools, fountains or other public properties. Absent a written agreement to the contrary which recites adequate consideration, water so furnished shall be subject to all charges for water and water service that are applicable to commercial and industrial water users.

(b) *Conditions.* Operations of the city for such uses shall guard against leakage or other wastage of water. The director of the water services department may require the city department in charge of any city property using water to install water meters to measure the quantity of water used when he deems it necessary, and shall require that a meter be installed for all accounts using or estimated to use more than 5,000 cubic feet of water during any one month of the year.

(c) *Installation of meters.* Such meters and their settings shall be subject to the approval of the director of the water services department, and all costs of such meters and their installation shall be borne by the city department served. When the director of the water services department deems it necessary that a meter be installed to accurately measure the volume of water used to serve any city property, he is hereby authorized to have the necessary meters installed and to include the cost of the meters and their installation as a part of the next regular water bill issued to the department responsible for the operation of the city property in question.

Sec. 78-33. Tampering with mains, hydrants or appurtenances; obstruction of hydrants.

It shall be unlawful for any person to expose or make any attachments to water mains, hydrants or appurtenances except with the knowledge and consent of the water services department, and no person shall cause access to a fire hydrant to be obstructed by debris, building material or other means.

Sec. 78-34. Obstructing use of public drinking fountain.

No person shall obstruct the public use of any public drinking fountain.

Sec. 78-35. Authority to prescribe additional rules and regulations.

The director of the water services department, in the exercise of the power conferred on him by this chapter to manage, maintain, control and operate the waterworks system and properties, is hereby empowered to prescribe rules and regulations governing the specifications for water services connected to water services department mains, the conditions under which service connections to mains are to be made, the conditions which are required for a satisfactory meter setting, the conditions whereby service will be disconnected to provide for changes in plumbing on the accountholder premises or for private main extensions, and other similar matters affecting the operation of the water services department not covered by ordinance of the city council. Copies of such rules and regulations shall be printed and shall be made available without cost to all licensed master plumbers and upon request to water accountholder or other interested parties.

Sec. 78-36. Penalty.

Any person who shall violate any provisions or fail to comply with any requirement of this article or of article II, division 2, of this chapter shall, on conviction thereof, where no specific penalty is provided, be subject to punishment as provided in section 1-17 for each offense.

Secs. 78-37—78-60. - Reserved.

CHAPTER 78 - ARTICLE II. - MAINS

- DIVISION 1. GENERALLY
- DIVISION 2. EXTENSIONS
- DIVISION 3. RELOCATIONS

DIVISION 1. - GENERALLY

Secs. 78-61—78-90. Reserved.

Secs. 78-61—78-90. - Reserved.

DIVISION 2. - EXTENSIONS

- Sec. 78-91. Execution of contracts.
- Sec. 78-92. Sizes of mains; spacing of hydrants.
- Sec. 78-93. Manner of construction; basis of charges for work done by city.
- Sec. 78-94. Bonds and insurance when extension constructed by applicant.
- Sec. 78-95. Preparation of plans by applicant's engineer.
- Sec. 78-96. Preparation of plans by water services department.
- Sec. 78-97. Deposit of estimated costs when extension constructed by city—required; amount.
- Sec. 78-98. Same—Refund of excess deposit; additional deposit.

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Sec. 78-99. Control and ownership of extensions.

Sec. 78-100. Time limit for commencing and completing work.

Sec. 78-101. Contract provision regarding refunds.

Sec. 78-102. Certification of available funds required for reimbursement for oversized mains.

Sec. 78-103. Right of city to deny connection until costs of project have been paid.

Secs. 78-104—78-130. Reserved.

Sec. 78-91. Execution of contracts.

The director of the water services department is hereby authorized to execute contracts for water main extensions, which involve no refunds for connections thereto, as prescribed in this division.

Sec. 78-92. Sizes of mains; spacing of hydrants.

(a) Water main extensions shall include no mains smaller than six inches in size, and hydrants shall be spaced according to the then existing design criteria of the water services department; provided, however, that the director of the water services department may require:

- (1) The use of eight-inch or 12-inch mains in lieu of six-inch mains, if in the Director's best judgment the eight-inch or 12-inch main is necessary for the best interests of the city;
- (2) The use of mains larger than 12 inches, in which case the city shall bear the difference between the estimated cost of the larger main and a 12-inch main, unless in the judgment of the director of the water services department such larger main is required or needed by the applicant for such water main extension; or
- (3) The use of six-inch, eight-inch, 12-inch, or larger mains in areas where existing mains need to be improved in order to improve the fire protection and continuity of the water system, or is required or needed by the applicant for the adjoining main extension.

(b) The main extension shall include as an integral part thereof installation of such outlet on the existing city-owned main as may be required to permit connection of the main extension to the existing system of the city.

Sec. 78-93. Manner of construction; basis of charges for work done by city.

All water main extensions shall be constructed by the applicant for the water main extension; provided, however, that the director of the water services department, in the director's discretion, and if in the director's judgment circumstances so warrant, may arrange for the extension to be constructed by the city, by contract awarded on the basis of competitive bids or by force account, using city employees and equipment owned or rented by the city, or by any combination of such methods. The basis of charges for labor,

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materials or equipment for force account work done by the city shall be consistent with that used in the allocation of similar charges for other work done by the city.

Sec. 78-94. Bonds and insurance when extension constructed by applicant.

(a) *Bonds.* If the water main extension is constructed by the applicant, the applicant or the applicants agent, servant or employee, independent contractor, or such other persons, firm, partnership, corporation or association by whom such work is to be performed, shall file with the water services department:

- (1) A performance and maintenance bond in an amount equal to the estimated total cost of the project, conditioned that such work will be done in accordance with the water services department's standard specifications and guaranteeing the work and maintenance of trenches for a period of three years from the date of acceptance, by the water services department, of the work; and
- (2) A payment bond in an amount equal to the total estimated cost of the project, that shall be conditioned for the payment of any and all materials, incorporated, consumed or used in connection with the construction of such work, and all insurance premiums, both for compensation, and for all other kinds of insurance, said work, and for all labor performed in such work whether by subcontractor or otherwise.

(b) *Insurance.* Before commencing work upon such project, the applicant or his agent, servant or employee, independent contractor, or such other persons, firm, partnership, corporation or association by whom such work is to be performed, shall also file with the water services department a certificate of public liability insurance in favor of the city, conditioned to protect and save harmless the city from all claims for damage to property or injury to persons by reason of such construction work, and indemnifying the city on account of such claims or injuries. The amount of the insurance shall be approved by the water services department.

Sec. 78-95. Preparation of plans by applicant's engineer.

Except for unusual circumstances, the preparation of detailed plans for water main extensions shall be prepared by a registered professional engineer engaged by the applicant. The director of the water services department shall make rules and regulations by which an applicant may accomplish the engineering design of water main extensions by a registered professional engineer in private employment. The contract for a water main extension to be accomplished in accordance with such rules and regulations shall include an inspection fee of five percent of the estimated total cost of the water main extension, as determined by the director of the water services department, however, the minimum inspection fee shall be the sum of \$750.00, this fee to be a nonrefundable charge covering the cost of inspection of construction, flushing, and other overhead costs of the city.

Sec. 78-96. Preparation of plans by water services department.

If, because of special circumstances, the main extension should be designed by the water services department rather than by the applicant's engineer as provided in section 78-95, the applicant for the water main extension shall pay the water services department, at the time of making application, a sum equal to five percent of the estimated total cost of the water main extension, as determined by a preliminary study by the director of the water services department; provided, however, the minimum amount to be paid shall be the sum of \$2,750.00, this amount to be a nonrefundable charge to the applicant to cover the cost of design. After the plans and specifications for any water main extension have been prepared by the water services department, the applicant for such extension shall enter into a contract for the construction of such extension and shall pay an additional fee to the city in the amount of 15 percent of the estimated cost of the water main extension, less the amount paid with the application. This additional fee shall be a nonrefundable charge covering the engineering, design, inspection of construction, flushing, and other overhead costs of the city.

**Sec. 78-97. Deposit of estimated costs when extension constructed by city—
required; amount.**

The applicant for any water main extension to be constructed by the city shall make a deposit with the city in an amount equal to the estimated total cost of the water main extension, and such estimated cost shall include all costs for materials, labor, transportation, equipment and other costs, but shall include no charge for engineering, administration and other overhead costs as defined in section 78-96.

Sec. 78-98. Same—Refund of excess deposit; additional deposit.

When the actual cost of any water main extension is known, the city shall refund that part of the applicant's deposit that is in excess of the actual cost. In case the deposit is less than the actual cost, the director of the water services department may require that the deficiency be made up by an additional deposit to be paid before any connection to the line is made by the applicant.

Sec. 78-99. Control and ownership of extensions.

All water main extension contracts authorized by this division shall stipulate that the water mains constructed by the applicant shall be the property of the city, and the control, operation and right of use thereof shall be vested wholly and exclusively in the city; and the applicant for such extension shall have no interest therein other than the right to make connections thereto in accordance with applicable rules and regulations of the water services department.

Sec. 78-100. Time limit for commencing and completing work.

Each water main extension contract shall stipulate that all construction and installation made in accordance with contracts authorized by this division shall be started within three months and completed within 12 months from the date of such contract, or

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the director may, at his option, and upon giving written notice, cancel such contract, in which case any and all deposits shall be forfeited, and any portion of the work which had been completed shall become property of the city.

Sec. 78-101. Contract provision regarding refunds.

Each main extension contract shall stipulate that the applicant shall be entitled to no refund at any time on account of any customers directly and permanently or temporarily connected to any water main extension or on account of revenue collected from such customers.

Sec. 78-102. Certification of available funds required for reimbursement for oversized mains.

Any contract entered into pursuant to this division which may involve reimbursement to the applicant for mains larger than 12 inches in diameter or system improvement shall not be binding upon the city unless there is affixed thereon at the time of execution a certification by the director of finance that sufficient funds are available to meet the obligation being incurred.

Sec. 78-103. Right of city to deny connection until costs of project have been paid.

For any and all contracts authorized by this division, the city may, at its option, refuse to permit service connections until the applicant has furnished a certified statement of the actual construction costs and has certified that all bills and claims relating to the project have been paid. The city may prohibit connections to the system while there is any claim against the applicant for unpaid bills or other obligations arising out of the installation of the water main extension; provided, however, that if the applicant indemnifies the city to its satisfaction against the disputed claims this provision may be waived.

Secs. 78-104—78-130. - Reserved.

DIVISION 3. - RELOCATIONS

Sec. 78-131. Execution of contracts; responsibility for payment of costs.

Sec. 78-132. Size of mains; spacing of hydrants.

Sec. 78-133. Manner of construction; basis of charges for work done by city.

Sec. 78-134. Bonds and insurance when relocation constructed by applicant.

Sec. 78-135. Fees when plans prepared by water services department.

Sec. 78-136. Preparation of plans by applicant's engineer.

Sec. 78-137. Deposit of estimated costs when relocation constructed by city—Required; amount.

Sec. 78-138. Same—Refund of excess deposit; additional deposit.

Sec. 78-139. Certification of available funds required for reimbursement for oversized mains.

Sec. 78-140. Control and ownership of relocations.

Sec. 78-141. Right of city to deny connection until costs of project have been paid.

Secs. 78-142—78-170. Reserved.

Sec. 78-131. Execution of contracts; responsibility for payment of costs.

The director of the water services department is hereby authorized to execute contracts for relocation of water mains as prescribed in this division. The entire expense or cost of relocating such water mains shall be borne by the applicant, except as provided in this division. The relocation of a fire hydrant(s) shall be done in the same manner as a water main relocation.

Sec. 78-132. Size of mains; spacing of hydrants.

Water main relocations shall include no mains smaller than the existing main or a six inch main, whichever is greater, and hydrants shall be spaced according to the then existing design criteria of the water services department; provided, however, that the director of the water services department may require the use of larger mains in lieu of existing mains if, in the director's best judgment, the larger main is necessary for the best interests of the city, in which case the city shall bear the difference between the estimated cost of the larger main and the existing main, unless in the judgment of the director of the water services department such larger main is required or needed by the applicant for such water main relocation.

Sec. 78-133. Manner of construction; basis of charges for work done by city.

All water main relocations may be constructed by the city by contract awarded on the basis of competitive bids or by force account, using city employees and equipment owned or rented by the city or by any combination of such methods; provided, however, the director of the water services department, in the director's discretion, may require any applicant for a water main relocation to construct the relocation. The basis of charges for labor, materials or equipment for force account work shall be consistent with that used in the allocation of similar charges for other work done by the city.

Sec. 78-134. Bonds and insurance when relocation constructed by applicant.

(a) *Bonds.* If the main relocation is constructed by the applicant, rather than the city, the applicant or the applicant's agent, servant or employee, independent contractor, or such other persons, firm, partnership, corporation or association by whom such work is to be performed, shall file with the water services department:

- (1) A performance and maintenance bond in an amount equal to the estimated total cost of the project, conditioned that such work will be constructed and completed in accordance with the approved drawings and in accordance with the water services department's standard specifications and guaranteeing the work and maintenance of trenches for a period of three years from the date of acceptance of the work; and
- (2) A payment bond in an amount equal to the total estimated cost of the project, that shall be conditioned for the payment of any and all materials, incorporated, consumed or used in connection with the construction of such work, and all insurance premiums, both for compensation, and for all other kinds of insurance, said work, and for all labor performed in such work whether by subcontractor or otherwise.

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(b) *Insurance.* Before commencing work upon such project, the applicant or the applicants agent, servant or employee, independent contractor, or such other persons, firm, partnership, corporation or association by whom such work is to be performed, shall also file with the Water Services Department a certificate of public liability insurance in favor of the City, conditioned to protect and save harmless the City from all claims for damages to property or injury to persons by reason of such construction work, and indemnifying the City on account of such claims or injuries, with the amount of the insurance to be approved by the Water Services Department.

Sec. 78-135. Fees when plans prepared by water services department.

(a) *Fee for cost of design.* All applicants for water main relocations shall pay to the water services department, at the time of making application, a sum equal to five percent of the estimated total cost of such water main relocation, as determined by preliminary study by the director of the water services department; provided, however, the minimum amount to be paid shall be the sum of \$500.00. This amount shall be a nonrefundable charge to the applicant to cover the cost of design.

(b) *Fee for overhead costs.* After the plans and specifications for any water main relocation have been prepared by the water services department, the applicant for such relocation shall enter into a contract for the construction of such relocation and shall pay an additional fee to the city in the amount of 15 percent of the estimated total cost of the relocation, less the amount paid with the application. This additional fee shall also be a nonrefundable charge covering the engineering, design, inspection of construction, flushing, and other overhead costs of the city.

Sec. 78-136. Preparation of plans by applicant's engineer.

The director of the water services department shall make rules and regulations by which an applicant may accomplish the engineering design of water main relocations by a registered professional engineer in private employment. If the design for a water main relocation is accomplished in accordance with such rules and regulations, the fees as stated in section 78-135 may be reduced to one fee of four percent of the estimated total cost of the relocation, as a nonrefundable charge covering inspection of construction, flushing, and other overhead costs of the city.

**Sec. 78-137. Deposit of estimated costs when relocation constructed by city—
Required; amount.**

The applicant for any water main relocation to be constructed by the city shall make a deposit with the city in an amount equal to the estimated total cost of such relocation, and such estimated total cost shall include all costs for materials, labor, transportation, equipment and other costs, but shall include no charge for engineering, administration and other overhead costs, as defined in sections 78-135 and 78-136.

Sec. 78-138. Same—Refund of excess deposit; additional deposit.

When the actual total cost of any water main relocation is known, the city shall refund that part of the applicant's deposit that is in excess of the actual total cost. In case

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the deposit is less than the actual total cost, the director of the water services department may require that the deficiency be made up by an additional fee to be paid before any connection to the line is made by the applicant.

Sec. 78-139. Certification of available funds required for reimbursement for oversize mains.

Any contract entered into pursuant to this division which may involve reimbursement to the applicant for mains larger than existing mains or system improvement shall not be binding upon the city unless there is affixed thereon at the time of execution a certification by the director of finance that sufficient funds are available to meet the obligation being incurred.

Sec. 78-140. Control and ownership of relocations.

All water main relocations made in accordance with contracts authorized by this division shall be the property of the city, and the control, operation and right of use thereof shall be vested wholly and exclusively in the city; and the applicant for such relocation shall have no interest therein other than the right to make connections thereto in accordance with applicable rules and regulations and shall have no right to any refund whatsoever.

Sec. 78-141. Right of city to deny connection until costs of project have been paid.

For any and all contracts authorized by this division the city may, at its option, refuse to permit service connections until the applicant has furnished a certified statement of the actual construction costs and has certified that all bills and claims relating to the project have been paid. The city may prohibit connections to the system while there is any claim against the applicant for unpaid bills or other obligations arising out of the installation of the water main relocation; provided, however, that if the applicant indemnifies the city to its satisfaction against the disputed claims this provision may be waived.

Secs. 78-142—78-170. Reserved.

CHAPTER 78 - ARTICLE III. - SWIMMING AND BATHING FACILITIES

DIVISION 1. - GENERALLY

DIVISION 2. - OPERATING PERMITS

DIVISION 3. - ENFORCEMENT AND RIGHTS

DIVISION 1. - GENERALLY

Sec. 78-171. Scope, purpose and intent of article.

Sec. 78-172. Definitions.

Sec. 78-173. Duties of director.

Sec. 78-174. Authority to prescribe additional rules and regulations.

Secs. 78-175—78-179. Reserved.

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Sec. 78-171. Scope, purpose and intent of article.

(a) The scope, purpose and intent of this article is to provide a uniform set of rules and regulations governing and controlling swimming and bathing facilities, to provide a guide for the licensing of existing and new swimming pools, special-purpose facilities and natural bathing places, as defined in this article, and to regulate the construction, reconstruction, maintenance, operation and repair of swimming pools, special-purpose facilities and natural bathing places within the city.

(b) This article includes rules and regulations for water safety, health and sanitation.

(c) This article includes technical requirements pertaining to such facilities, but there is also vested in the director power and authority to make such specific requirements for each permit holder as in his judgment and discretion are just and reasonable.

(d) The provisions of this article shall be in addition to existing laws and ordinances, and any owner or operator of any and all bathing facilities shall be required to comply with all of such provisions.

(e) This article is not intended to include and regulate single-family residential swimming pools or pools similarly situated.

Sec. 78-172. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bathing facility includes, generally, any swimming pool, special-purpose facility or natural bathing place as defined in this section.

Director means the director of the city department of health or his designee.

Lifeguard means a person who is 16 years of age or older and who meets the qualifications prescribed in this article, whose sole function and duty is to supervise those persons utilizing water facilities and to be able to render any assistance to persons in distress in the water or in the immediately adjacent water area, and who holds a current certificate in lifesaving from an accredited organization approved by the director.

Natural bathing place includes such places as ponds, rivers, lakes, springs or such other places in which water cleanliness is dependent upon natural flow or upon wind or wave action, and where the place is used or operated as a swimming pool or bathing facility, either for profit, not for profit or for public recreational purposes.

Operating permit means the permit issued by the director to either construct, reconstruct, maintain, operate or repair a swimming pool, special-purpose pool or natural bathing place, as defined and set forth in the particular conditions and requirements for each applicant thereof where found necessary and justified in the discretion of the director, in accordance with his rules and regulations.

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Seasonal permits are operating permits issued for any swimming pool, special-purpose facility or natural bathing place that is in operation for less than seven months of the calendar year.

Special-purpose facility includes the term in its ordinary sense and meaning, and also any therapeutic pools, water slides, treatment pools, spas, hot tubs and special-purpose pools for water therapy, that are not drained after each use, whether they are operated or managed on a profit or not-for-profit basis, associated with or separate from public facilities or utilized for public recreational purposes.

Swimming pool includes the term in its ordinary sense and meaning, and also any and all wading pools, spray pools, private pools, semiprivate pools, club pools, public pools or any other artificial bathing place where such could be reasonably so denominated, but not exclusive thereof, whether they are operated or managed on a profit or not-for-profit basis, or for public recreational purposes.

Yearly permits are operating permits issued for any swimming pool, special-purpose facility or natural bathing place that is in operation for more than seven months of the calendar year.

Sec. 78-173. Duties of director.

The director shall have the duty and responsibility of enforcing the provisions of this article and the rules and regulations promulgated by him as authorized by section 78-174, or any amendments in requirements or conditions of any permit issued under this article; and, in addition thereto, he or she shall keep records of all operating permits issued or renewed and any changes thereof, prepare a form of application for such permit, cause an inspection of the premises to be made at any reasonable time of any permit holder, make any amendments to the conditions and requirements either before or after an operating permit is issued, or do any other matter or thing necessary to carry out the intent, purpose and scope of this article and the rules and regulations promulgated under this article.

Sec. 78-174. Authority to prescribe additional rules and regulations.

(a) *Scope of authority.* The director shall formulate rules and regulations for implementing the provisions of this article, and such rules shall include any and all requirements for lifeguards. Such rules and regulations shall be filed with the city clerk, and, when so filed, shall be in effect as part of this article. Such rules may be modified or superseded by other rules and regulations filed by the director from time to time.

(b) *Scope of regulations.* The director shall have power and authority to make provision in such rules and regulations for health, sanitation and adequate water safety as such rules and regulations may appertain to each and every holder of a permit under this article; and such provisions, conditions or requirements shall be subject to modification, deletions, additions or other change or alteration as to any holder of a permit as the director may find and determine at any time.

Secs. 78-175—78-179. Reserved.

DIVISION 2. - OPERATING PERMITS

Sec. 78-180. Required.

Sec. 78-181. Conditions.

Sec. 78-182. Application; fees.

Sec. 78-183. Amendment of requirements; notice and review.

Sec. 78-184. Duties of permit holder.

Secs. 78-185—78-199. Reserved.

Sec. 78-180. Required.

(a) All persons, firms, partnerships, corporations and associations, either for profit or nonprofit, now or hereafter owning, operating or managing a swimming pool or natural bathing place or other like facility, as defined in section 78-172, shall obtain an operating permit for each such facility from the director. The permit shall be issued only after an application has been submitted and approved by the director on forms to be furnished by him or her. Permits are not transferable with any changes in ownership.

(b) A construction permit shall be required in addition to any and all other requirements made under law or ordinance in those instances where there is initial construction, reconstruction or repair of any bathing facility, whether or not an operating permit has been issued for the bathing facility.

Sec. 78-181. Conditions.

No operating permit shall be issued by the director until the applicant therefore has complied with the rules and regulations promulgated by the director and all provisions of this article. The director is authorized and directed to endorse on the operating permit such conditions and requirements which in his best judgment and discretion are necessary for the protection of the health and safety of the persons utilizing such swimming pool or bathing facility. Such conditions and requirements shall conform as closely as possible to the rules and regulations promulgated by the director. Such rules and regulations shall not be so strictly construed to operate hardship upon any applicant; but the director shall have discretion to prescribe reasonable conditions and requirements to carry out the scope, purpose and intent of this article.

Sec. 78-182. Application; fees.

(a) *Contents of application.* Before any permit shall be issued, all persons now or hereafter owning, operating or managing a bathing facility shall complete an application for an operating permit on forms furnished by the director. The application shall show the location, operation, specifications and such other information of the existing or proposed bathing facility as may be required by the director.

(b) *Investigation of facility.* Upon receipt of an application, the director shall cause an investigation to be made of the existing facility, or the plans and specifications of a proposed facility, to determine if such applicant meets the requirements of this article and the rules and regulations promulgated under this article.

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(c) *Application fee.* A fee of \$50.00 shall accompany the initial application and also any instance where a permit holder may thereafter apply to the director for a modification of the particular requirements and conditions embodied in such permit.

(d) *Fees generally.* Fees shall be based upon the following classification of bathing facility and whether the bathing facility is operational seasonally or yearly, as defined in section 78-172. Classes of pools shall be as follows:

Class I - Municipal, community, athletic clubs or swimming clubs, country clubs, public and private schools and various camp and day care pools. Natural bathing places shall be in this class but are exempt from disinfectant levels. class I pools shall not have a mandatory closing time.

Class II - Pools not meeting the supervision requirements shall be included within this class, i.e. hotels, motels, apartment complexes, condominiums, and multiple-housing units. Except with special permission, class II pools must close at 10:00 p.m. No children under the age of 12 are allowed in the pool without a responsible person of the age 16 or older.

Class III - All baby pools or wading pools with a maximum depth of two feet.

Class IV - Special purpose facilities - Hot tubs, spas, whirlpools or any pools operated for medical treatment, that are not drained after each use.

The following schedule prescribes applicable fees for permits described in this article and the effective dates of such fees:

Class	Type	Current Fee	Permit Year 2006	Permit Year 2007 and Forward
Class I	Yearly	\$400.00	\$475.00	\$550.00
Class I	Seasonal	250.00	300.00	350.00
Class II	Yearly	400.00	475.00	550.00
Class II	Seasonal	250.00	300.00	350.00
Class III	Yearly	170.00	210.00	250.00
Class III	Seasonal	170.00	185.00	200.00
Class IV	Yearly	170.00	210.00	250.00
Class IV	Seasonal	170.00	185.00	200.00

(e) *Reinstatement fee.* In addition to other fees established herein, there shall be a fee of \$50.00 for the reinstatement of any permits that have been suspended or revoked.

(f) *Adjustment of fees.* The director shall have the authority to adjust the above-listed fees annually to reflect the change in the consumer price index (all items/all urban consumers/Kansas City, Missouri Kansas) published by the United States Department of Labor, Bureau of Labor Statistics. The costs of issuance and inspections of permits may be increased by the CPI index indicated above.

Sec. 78-183. Amendment of requirements; notice and review.

(a) *Authority of director.* The director is authorized, upon proper showing, to amend the requirements and conditions set forth in any permit issued under this division upon proper application of any holder of an operating permit.

(b) *Notice to permit holder.* Before the director shall cause an amendment in the conditions and requirements in any permit or renewal thereof to be made, he or she shall cause a notice to be given to such permit holder at least ten days before he amends such permit, stating therein the nature of the action he proposes to take with regard to the conditions and requirements of such permit.

(c) *Right to review.* If such permit holder is aggrieved by the proposed action of the director, he shall have the right to a hearing thereon before the director of health, and have a transcript thereof made and a decision rendered thereon, which shall constitute the amended permit. A request for hearing by the permit holder shall be made in writing and delivered to the director of health within five days after receipt of the notice of proposed amendment, and shall state the grounds upon which objection to the proposed amendment of the director is made. If such permit holder is still aggrieved by the action of the director, then a judicial review of such decision may be had in the circuit court of the county wherein such bathing facility is situated.

Sec. 78-184. Duties of permit holder.

All holders of operating permits issued under this division shall comply with all provisions of this article, and the rules and regulations promulgated by the director, as such provisions, rules and regulations may be amended from time to time, and also each and every condition and requirement endorsed upon such permit or any renewal thereof issued under this division, as such conditions and requirements may be amended by the director as provided in section 78-183.

Secs. 78-185—78-199. Reserved.

DIVISION 3. - ENFORCEMENT AND RIGHTS

Sec. 78-200. Inspections required.

Sec. 78-201. Non-health-hazardous or life-threatening violations; opportunity to correct.

Sec. 78-202. Same—Notice of hearing for suspension or revocation.

Sec. 78-203. Same—Hearings; record of proceedings; failure to appear.

Sec. 78-204. Same—Suspensions; reinstatements of permits; length of suspension.

Sec. 78-205. Same—Revocations.

Sec. 78-206. Health-hazardous or life-threatening violations; opportunity to correct.

Sec. 78-207. Same—Notice of hearing for suspension or revocation.

Sec. 78-208. Same—Hearings; record of proceedings; failure to appear.

Sec. 78-209. Same—Suspensions; reinstatements of permits; length of suspension.

Sec. 78-210. Same—Revocations.

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Sec. 78-211. Violations generally; penalty; failure to obtain permit or renew.

Sec. 78-212. Appeal.

Secs. 78-213—78-240. Reserved.

Sec. 78-200. Inspections required.

The director shall cause periodic inspections to be made of all swimming pools, special-purpose facilities and natural bathing places regulated under this article to ensure that the holder of the operating permit issued under this article is complying with the provisions of this article, the rules and regulations promulgated by the director, as they may be amended from time to time, and the conditions and requirements set forth in the operating permit issued for the particular facility for which the operating permit was issued or renewed.

Sec. 78-201. Non-health-hazardous or life-threatening violations; opportunity to correct.

During an inspection, if a health officer discovers that a permit holder has failed to comply with this article or the rules and regulations established by the director, and the violation is not life-threatening or a potentially serious health hazard, he or she shall:

- (1) Inform the permit holder, his agent, servant or employee in writing that a violation exists;
- (2) Allow the permit holder an opportunity to correct the violation within a reasonable period of time, as determined by the director; and
- (3) Re-inspect the swimming pool, special-purpose facility or natural bathing place to determine if the violation still exists.

Sec. 78-202. Same—Notice of hearing for suspension or revocation.

If the director finds the permit holder still in violation upon re-inspection pursuant to section 78-201, he shall notify the permit holder in writing of his intention to suspend or revoke the permit and allow the permit holder an opportunity for a hearing. Such notice shall be sent to the permit holder at least five days before such hearing and shall include the date, time and location of the hearing.

Sec. 78-203. Same—Hearings; record of proceedings; failure to appear.

(a) *Hearings.* The director shall conduct hearings pursuant to section 78-202 to determine if a suspension or revocation shall take effect. The permit holder shall be allowed to show cause why such action should not be taken.

(b) *Record of proceedings.* The director shall cause to be made a true and accurate transcript of such proceedings, and any appeal or review thereof by such permit holder shall be taken in accordance with the law.

(c) *Action by director.* After any hearing shall be concluded, the director shall make findings of fact and conclusions of law upon which his or her decision shall be

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based. Such conclusions may result in either no action taken due to no violation, suspension or revocation.

(d) *Automatic suspension.* Failure of a permit holder to appear at the hearing shall result in automatic suspension of the permit.

Sec. 78-204. Same—Suspensions; reinstatements of permits; length of suspension.

(a) After a hearing, if the director finds the permit holder to be in violation of this article or the rules and regulations and suspends the permit, the permit holder shall lock, secure or close the area of violation and post a sign indicating that the bathing facility is closed for maintenance or is temporarily out of service.

(b) Failure of the permit holder to lock, close, or secure the bathing facility and maintain such signage during suspension may result in revocation of the permit.

(c) If the permit holder has corrected the violation during a period of suspension, he or she shall notify the director of the intention to have the permit reinstated.

(d) The director shall re-inspect the premises. If the violation no longer exists, the director or health officer will leave written notification that the permit has been reinstated. Such notice shall also notify the permit holder that the closure signage may be removed and the bathing facility may once again operate.

(e) The director shall charge a reinstatement fee of \$50.00 whenever a suspended permit is reinstated upon a re-inspection, as stated in section 78-128(e).

(f) Suspensions in effect longer than 90 days shall result in a revocation.

Sec. 78-205. Same—Revocations.

If the director decides to revoke a permit after a hearing or pursuant to subsection 78-204(b) or 78-204(f), such bathing facility shall not remain in operation and shall be secured in a fashion deemed necessary by the director.

Sec. 78-206. Health-hazardous or life-threatening violations; opportunity to correct.

During an inspection, if a health officer discovers that a permit holder has failed to comply with this article or the rules and regulations established by the director, and the violation is life-threatening or a potentially serious health hazard, he or she shall:

- (1) Immediately lock, secure or close the area of violation and post a sign indicating that the bathing facility is closed for maintenance or is temporarily out of service.
- (2) Inform the permit holder or his agent, servant or employee in writing that a violation exists;
- (3) Allow the permit holder an opportunity to correct the violation within a reasonable period of time, as determined by the director; and

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- (4) Re-inspect the swimming pool, special-purpose facility or natural bathing place to determine if the violation still exists.

Sec. 78-207. Same—Notice of hearing for suspension or revocation.

If the director finds the permit holder still in violation upon re-inspection pursuant to section 78-206, he shall notify the permit holder in writing of his intention to suspend or revoke the permit and allow the permit holder an opportunity for a hearing. Such notice shall be sent to the permit holder at least five days before such hearing and shall include the date, time and location of the hearing.

Sec. 78-208. Same—Hearings; record of proceedings; failure to appear.

(a) *Hearings.* The director shall conduct hearings pursuant to section 78-207 to determine if a suspension or revocation shall take effect. The permit holder shall be allowed to show cause why such action should not be taken.

(b) *Record of proceedings.* The director shall cause to be made a true and accurate transcript of such proceedings, and any appeal or review thereof by such permit holder shall be taken in accordance with the law.

(c) *Action by director.* After any hearing shall be concluded, the director shall make findings of fact and conclusions of law upon which his or her decision shall be based. Such conclusions may result in either no action taken due to no violation, suspension or revocation.

(d) *Automatic suspension.* Failure of a permit holder to appear at the hearing shall result in automatic suspension of the permit.

Sec. 78-209. Same—Suspensions; reinstatements of permits; length of suspension.

(a) After a hearing, if the director finds the permit holder to be in violation of this article or the rules and regulations and suspends the permit, he shall make an order that the area or facility in violation remain locked, secured or closed and that signs indicating the bathing facility is closed for maintenance or is temporarily out of service remain in place during the period of suspension.

(b) Failure of the permit holder to lock, close or secure the bathing facility and maintain such signage during suspension may result in revocation of the permit.

(c) If the permit holder has corrected the violation during a period of suspension, he or she shall notify the director of his intention to have the permit reinstated.

(d) The director shall re-inspect the premises. If the violation no longer exists, the director or health officer will leave written notification that the permit has been reinstated. Such notice shall also notify the permit holder that the closure signage may be removed and the bathing facility may once again be in operation.

(e) The director shall charge a reinstatement fee of \$50.00 whenever a suspended permit is reinstated upon a re-inspection, as stated in section 78-182(e).

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(f) Suspensions in effect longer than 90 days shall result in a revocation.

Sec. 78-210. Same—Revocations.

If the director decides to revoke a permit after a hearing or pursuant to section 78-209(b) or 78-209(f), such bathing facility shall not remain in operation and shall be secured in a fashion deemed satisfactory by the director.

Sec. 78-211. Violations generally; penalty; failure to obtain permit or renew.

(a) Any person violating any provision of this article, the rules and regulations of the director, or the conditions and requirements contained in the operating permit, as any or all of such provisions, rules, regulations, conditions or requirements may be amended, shall be deemed guilty of an ordinance violation, and upon conviction thereof shall be punished as provided in section 1-17. Such violations apply to actions or inactions taken by the permit holder, his agents, servants or employees.

(b) Failure of any person to obtain an operating permit or keep the permit in force and effect by proper renewal thereof, where an operating permit is required, shall constitute a violation of this article.

(c) Where the permit holder is a corporation or other association authorized by law to act only through an officer thereof, the officers executing the application or their successors shall be the responsible person subject to the penalties set forth in this section for the violation of this article.

Sec. 78-212. Appeal.

Any permit holder aggrieved by an adverse ruling or decision by the director may have the ruling or decision reviewed by any means authorized by law, and such review shall begin in the first instance of the circuit court of the county in which the bathing facility is situated.

Secs. 78-213—78-240. Reserved.

CHAPTER 78 - ARTICLE IV. - SPECIAL ASSESSMENTS

Sec. 78-241. Institution of proceedings; intent of article.

Sec. 78-242. Declaration of necessity.

Sec. 78-243. Notice of hearing.

Sec. 78-244. Decision of director of water services department, recording of notice.

Sec. 78-245. Determination of method of construction.

Sec. 78-246. Apportioning assessments.

Sec. 78-247. Determination and levying of assessments.

Sec. 78-248. Preparation of assessment roll.

Sec. 78-249. Assessment notice.

Sec. 78-250. Payment of assessments; interest.

Sec. 78-251. Assessment to constitute lien on property; collection of delinquent assessments.

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Sec. 78-252. Connection with water main not permitted for property for which assessments are delinquent.

Sec. 78-253. Contingent refund contracts when city funds not available.

Secs. 78-254—78-290. Reserved.

Sec. 78-241. Institution of proceedings; intent of article.

(a) *Petition by property owner.* In any area of the city in which water service is not available, or in which the capacity of existing water mains is inadequate to meet water supply or fire protection requirements, one or more owners of real estate within such area may present a petition to the director of the water services department requesting that the department, pursuant to the provisions of this article, install a water main or mains with appurtenances to serve such area.

(b) *Decision of director.* With such a petition, or without such a petition when deemed necessary by the director of the water services department, the water services department may institute proceedings to construct with its own forces or by a private contractor a water main or mains and appurtenances to serve property not having water service or having inadequate water main capacity. The cost of such improvement shall be defrayed in the manner provided by this article.

(c) *Intent of article.* The intent of this article is to provide for the construction of water main extensions and appurtenances thereto. It may be used to replace mains of inadequate capacity or to extend mains from the existing water system to areas not within proposed subdivisions or other areas under development. Petitions for a water main and related appurtenances located within a platted subdivision, wholly owned or controlled by one entity, are unacceptable under the terms of this article. However, nothing in this article shall be construed to prevent the program from serving properties under individual ownership in subdivisions already platted but not having a water system or having a water system inadequate to meet all reasonable need, including fire protection.

Sec. 78-242. Declaration of necessity.

All proceedings to install any water main and appurtenances as provided in this article shall be begun by the adoption and entry of a declaration of necessity (referred to in this article as the resolution) by the director of the water services department.

- (1) *Contents of resolution.* Such resolution shall be entered on the records of the department and shall contain:
 - a. A statement of the nature of the project, including a description, the location of the proposed improvement, and the properties to be benefited.
 - b. A statement that the project is to be paid for by a front foot assessment against abutting real property.
 - c. An estimate by the director of the water services department of the whole cost of the project and the probable cost per foot of property to be assessed. If the main proposed is larger than 12 inches, two

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estimates shall be recorded, one for the cost of a 12-inch main, and another for the whole cost of the proposed main.

- (2) *Estimate of cost.* The director of the water services department shall prepare an estimate of the probable cost of the proposed project, and such estimate shall be open to inspection and discussion at the hearing held on the project.
- (3) *Error in estimate.* Any error or inaccuracy in such estimate as compared with the actual cost of the work as finally determined shall not affect the validity of the proceedings or of any assessments made to pay for such improvement.

Sec. 78-243. Notice of hearing.

(a) *Publication.* At or after the adoption and entry of record of any such resolution as described in section 78-242, the director of the water services department shall cause a notice of the proposed project to be published for five days in the newspaper doing the city printing at the time, and if there is no such paper then in any other newspaper published in the city. Such notice shall recite briefly that such water mains and related appurtenances thereto are proposed, the general nature thereof, the streets or other points between which the project is to be constructed, and the properties to be served, and shall recite that a public hearing on the proposed project will be held on a specified date, not sooner than 15 days after the last day of publication, at a designated location.

(b) *Mailing to property owners.* The director of the water services department shall also cause a notice of intent to construct such proposed water mains and related appurtenances thereto to be sent by mail to every owner whose property will be subject to assessment. Such notice should include information required by state statutes. Names of such property owners shall be determined and taken from the assessment and levy of general taxes by the city; but no defect or mistake in the records or in the description therein of the lots or in the name of such apportionment shall impair the validity of the assessments, liens or bills issued pursuant to this article. The absence of proof that such notice was sent or received shall not affect the validity of the proceedings, or of any special assessment thereafter made, so long as the published notice specified in subsection (a) of this section has been properly accomplished.

Sec. 78-244. Decision of director of water services department, recording of notice.

After the hearing provided for in section 78-243, the director of the water services department shall determine the necessity for proceeding with the project or part thereof, or the director may order that the project or any part thereof be stopped, in which case the rejected project shall not be begun until the adoption of a new resolution. No remonstrance or objection shall stay any proceedings, and when the director of the water services department determines such project or any portion thereof to be necessary or unnecessary, the director's decision shall be final. Within 30 days after the director of the water services department has made a determination of necessity, the director of the water services department shall cause a notice of that determination, containing the legal

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description of each property that will be subject to assessment, to be filed in the office of the recorder of deeds for the county in which the properties are located. Any failure by the director of the water services department to file the notice in accordance with this section shall not invalidate the special assessments subsequently levied, and the burden of proof shall be upon anyone claiming damage on account thereof to show, in an appropriate action, the fact of such failure and that actual damage was caused thereby.

Sec. 78-245. Determination of method of construction.

After the entry of such resolution as provided for in section 78-242, and the adoption of plans and specifications, the director of the water services department may proceed to receive bids and to award contracts for the construction in the manner prescribed by the city charter and ordinances, or the director of the water services department may determine that such work shall be done with city forces. Such contract, or determination that city forces are to be used, shall not be binding and effective until confirmed by an ordinance of the city council, which ordinance shall state that the cost of the project shall be paid by special assessment, or by other means as specified by this article. When so confirmed, the work and the subsequent assessments and connection charges shall in all respects be considered and held to have been authorized by the city council.

Sec. 78-246. Apportioning assessments.

(a) *Front foot rule.* Except as otherwise required by state statute, assessment under this article shall be made, levied and assessed according to the front foot rule, which shall be held to mean that the required sum shall be assessed and charged against the several lots, tracts and parcels of real property to be served by the project and lawfully chargeable therewith, abutting upon either side of the project or portion thereof, in proportion to the frontage or abutment thereon of such respective lots, tracts and parcels of land.

(b) *Applicability of assessment.* Except as provided for in this article, the cost of the whole or any part of any water mains and related appurtenances referred to or authorized under the terms of this article is to be paid for by special assessments on abutting lands served by such improvement.

(c) *Payment of cost of oversized mains; assessment of city-owned property.* Any difference of cost between the size of the main actually installed and 12-inch main will be paid by the city. If a main larger than 12 inches in diameter is required in the judgment of the director of the water services department, the assessment for such a line of such size as may be constructed shall not exceed the cost of constructing a 12-inch line and appurtenances over the same route, as estimated by the director of the water services department and read at the time of the bid opening, as provided in section 78-242(2). City-owned property to be served and which abuts the project shall be assessed as other property.

(d) *Application of funds received from grants in aid.* When a project constructed pursuant to this article receives grants in aid or incentive contributions of any type, such funds shall be applied first to defray the city's cost of oversized mains, if any such costs

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are involved, pursuant to subsection (c) of this section; and any funds in excess of the amount required to cover the city's cost of oversize mains shall be applied to reduce the assessment per front foot.

Sec. 78-247. Determination and levying of assessments.

(a) *Computation of project cost.* The actual total cost of the project constructed pursuant to this article shall include construction cost, city-furnished construction materials, engineering cost and administrative costs, right-of-way or easement acquisition cost, all as defined in this subsection, and any other costs which are incurred as a direct result of the project and are designated in the ordinance approving the construction contract.

- (1) *Construction cost.* The total amount paid by the city to the contractor for construction of the project.
- (2) *City-furnished construction material cost.* The city's cost for all materials it furnishes to the contractor for installation on the project, including but not limited to fire hydrants, valve covers and lids.
- (3) *Engineering cost.* A sum equal to 15 percent of the construction cost plus 15 percent of the city-furnished construction material cost, which sum is determined to be the usual cost of such services. The engineering cost includes engineering design, survey and staking, inspection of construction, and flushing of the mains. Such engineering and related services may, at the discretion of the director of the water services department, be provided either by water services department personnel or by consultants, or by any combination of city and consultant forces.
- (4) *Administrative cost.* A sum equal to one percent of the construction cost plus one percent of the city-furnished construction material cost, which sum is determined to be the usual cost of such services. The administrative cost includes administrative services provided by the finance department in connection with the improvement; and, when any project is undertaken pursuant to this article, an appropriation of this sum shall be made to the finance department to cover these services.
- (5) *Right-of-way or easement cost.* The city's cost for acquisition of right-of-way, easements or license agreements necessary to facilitate the project, including all appraisal fees, payments, court fees, attorneys fees, recording fees, direct or indirect labor costs, and all other costs associated with such.

(b) *Apportionment of costs.* In making assessments to pay for water mains constructed under the provisions of this article, the director of the water services department shall first compute the total amount to be assessed in connection with the project, which amount shall be the actual total cost of the project, less any contributions whether for oversize mains as provided in section 78-246(c) or otherwise either by the city or by third parties. The director of the water services department shall then determine, by application of the front foot rule as defined in this article, or, by application of a different method if required by state statute, the portion of the total amount being

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assessed which is to be assessed against each of the several lots, tracts and parcels of land lawfully chargeable therewith; and shall thereupon enter on the records of the water services department an order making and levying such assessments against the tracts.

(c) *Corner lots.* Corner lots shall be assessed not more than one time. The amount of such assessment shall be computed by the front foot rule as defined in this article, based upon the linear front abutting the improvement that first provides full and adequate water service, including fire protection, to the lot.

Sec. 78-248. Preparation of assessment roll.

After the director of the water services department computes the applicable cost, the director shall submit to the finance department the apportionment of the cost of the project as provided for in sections 78-246 and 78-247. The finance department shall prepare a roll of all lots or parcels of real estate to be so assessed, containing the name and mailing address of the owner of each such lot or parcel, and a special tax statement for each such lot or parcel.

Sec. 78-249. Assessment notice.

After the assessment roll and tax statements provided for in section 78-248 have been certified by the director of the water services department and delivered to the finance department, a copy of the tax statement will be mailed by the finance department to each person whose name appears on such roll.

Sec. 78-250. Payment of assessments; interest.

Full or partial payment of assessments under this article may be made without interest during a 60-day period commencing with the date of issue of such statement. The remaining principal will be spread over a payment period not to exceed ten years, or such period of time as may be established in the ordinance approving the project. The first annual installment will be due June 30 following the date of the statement, except that, if the date of certification is between April 29 and July 1, the date of the first installment shall be June 30 of the following year. Subsequent installments will be due on June 30 of each year. Interest at six percent shall be computed on the first installment to June 30 from the statement date, and to June 30 from the last payment date on subsequent installments. Failure to make payment by June 30 of each year will cause the entire unpaid principal to become due with delinquent interest computed at seven percent from the last payment date, or from date of issue if no payment has been made. Full payment of the total assessment, principal and interest, for each respective lot, tract, or parcel must be made prior to any ownership split or subdivision of said lot, tract, or parcel. Reapportionment of these assessments to smaller parcels is prohibited. All moneys received from this source shall be credited to the water fund.

Sec. 78-251. Assessment to constitute lien on property; collection of delinquent assessments.

Assessments under this article shall constitute the same liens upon the real estate, and when delinquent shall be subject to collection in the same manner, as provided for

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other public improvement special assessment projects under state law, the City Charter, and the Code of Ordinances.

Sec. 78-252. Connection with water main not permitted for property for which assessments are delinquent.

No connection shall be permitted with any water main or appurtenances constructed pursuant to the provisions of this article if at the time there is outstanding a delinquent assessment for such water main improvement against the real estate to be served by such connection.

Sec. 78-253. Contingent refund contracts when city funds not available.

(a) *Generally.* It is intended that water system improvements constructed under this article will be financed from any revenue bond fund of the water services department or from other funds of the water services department, if available. When sufficient funds are in the discretion of the director of the water services department not available to finance construction of improvements under this article, the council may authorize the director of the water services department to enter into a contingent refund contract with an individual, firm or corporation, whereby funds are advanced to the water services department to support construction of a specific project, and whereby refunds will be made from assessments collected, pursuant to this section.

(b) *Applicability of special assessment procedures.* Projects funded under this section shall originate and comply in all respects to the procedures set out in sections 78-241 to 78-252, inclusive.

(c) *Method of refund.* All funds, principal and interest, actually collected pursuant to this section shall be segregated into a special account, and refund payment shall be made from such account annually over the period of time stipulated in the contract. Such refund shall be limited to the amount of all assessments and interest actually collected during the year.

(d) *Contract provisions.* Such contracts shall provide that:

- (1) The individual, firm or corporation shall pay the whole cost of such proposed project, exclusive of the cost of mains over 12 inches in diameter.
- (2) The city shall collect the delinquent assessments pursuant to this section before permitting a connection to be made to the line, serving the property for which the payment is delinquent.
- (3) Such assessments which are collected during a ten-year period, unless some other term is specified by council in its authorizing ordinance, shall be paid over annually to such individual, firm or corporation as reimbursement for monies advanced for construction.

Secs. 78-254—78-290. Reserved.

Chapter 78 - ARTICLE V. - BACKFLOW PREVENTION

- Sec. 78-291. Purpose of article.
- Sec. 78-292. Authority of director.
- Sec. 78-293. Definitions.
- Sec. 78-294. Compliance with article.
- Sec. 78-295. New or existing water connections.
- Sec. 78-296. Other new water connections.
- Sec. 78-296.1. Lawn irrigation systems.
- Sec. 78-297. Inspections; correction of violations.
- Sec. 78-298. Permit; installation standards.
- Sec. 78-299. Inspections and tests by user.
- Sec. 78-300. Exemptions from article.
- Sec. 78-301. Notice to install backflow device; compliance with decisions of director.
- Sec. 78-302. Compliance with article—Additional penalties.

Sec. 78-291. Purpose of article.

The purpose of this article is to protect the public potable water supply of the city by containing within the customer's internal distribution system or the customer's private water system such contaminants or pollutants that could backflow into the public water system.

Sec. 78-292. Authority of director.

The director of the water services department shall administer this article. If in the judgment of the director in accordance with the guidelines of this article an approved backflow prevention assembly is required for the safety of the water system, the director or his or her designated agent shall give notice in writing to such customer to install such an approved backflow prevention assembly at specific locations on his or her premises. The customer shall install such approved assembly at his or her own expense within the time specified in the notice; and failure, refusal or inability on the part of the customer to install, have tested and maintain such assembly shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

Sec. 78-293. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Auxiliary water supply means any water supply on or available to the premises other than the city's approved public water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source, such as a well, spring, river, stream, harbor and so forth; used waters; or industrial fluids.

Backflow means the undesirable reversal of flow in a potable water distribution system as a result of a cross connection.

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Backflow prevention assembly means an assembly or means designed to prevent backflow. The approved types are as follows:

- (1) *Air gap* means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, receptor or other assembly and the flood level rim of the receptacle. These vertical physical separations must be at least twice the diameter of the water supply outlet, and never less than one inch (25 millimeters).
- (2) *Reduced-pressure principle backflow prevention assembly*. The approved reduced-pressure principle backflow prevention assembly consists of two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and below the first check valve. These units are located between two tightly closing resilient-seated shutoff valves as an assembly and equipped with properly located resilient-seated test cocks.
- (3) *Double check valve assembly*. The approved double check valve assembly consists of two internally spring loaded check valves, installed as a unit between two tightly closing resilient-seated shutoff valves and fittings with properly located resilient-seated test cocks.

Contaminant means any foreign substance that degrades the quality of the potable water supply or creates a health hazard.

Cross connection means a connection between any part of a potable water system and any other fluids containing other substances in a manner that, under any circumstances, would allow such substances to enter the potable water system. Other substances may include gases, liquids or solids, such as chemicals, waste products, steam, water from other sources (potable or nonpotable), or any matter that may change the color or add odor to the water.

Director means the director of the water services department.

Industrial fluids means any fluids or solution that may be chemically, biologically or otherwise contaminated or polluted in a form or concentration that would constitute a health, system, pollution or plumbing hazard if introduced into an approved water supply. This may include but shall not be limited to polluted or contaminated waters; all types of process waters and used waters originating from the public potable water system that may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalis; circulating cooling waters connected to an open cooling tower; or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters, such as wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems, etc.; oils, gases, glycerin, paraffins, caustic and acid solutions; and other liquid and gaseous fluids used in industrial or other purposes, including for firefighting purposes.

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Pollutant means any foreign substance in water that tends to degrade its quality so as to constitute a nonhealth hazard or impair the usefulness of the water.

Water, nonpotable means water that is not safe for human consumption or that is of questionable quality.

Water, potable means water that is safe for human consumption as described by the Safe Drinking Water Act (42 USC 300.f et seq.).

Sec. 78-294. Compliance with article.

No water service connection to any premises shall be installed or maintained unless the water supply is protected as required by this article. Water service to any premises shall be discontinued by the department if a backflow prevention assembly required by this article is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed or bypassed, or if an unprotected cross connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

Sec. 78-295. New or existing water connections.

The owner of any new or existing commercial and industrial premises shall protect the public water system against backflow by installing an approved device commensurate with the degree of hazard in the non-fire service line, if the premises contain the following:

- (1) Any auxiliary water supply that is not or may not be of safe bacteriological or chemical quality and that is not acceptable as an additional source by the water services department;
- (2) Any industrial fluids or any other objectionable substances that are handled in such a fashion as to create an actual or potential hazard to the public water system; or premises where, in the opinion of the director, an undue health threat is posed because of the presence of toxic substances. This shall include the handling of process waters and waters originating from the utility system that have been subject to deterioration in quality; or
- (3) Multiple internal cross connections; or premises where entry to the necessary portions of the premises is not accessible for inspection purposes, making it impossible to ascertain whether or not dangerous cross connections exist.

Sec. 78-296. Other new water connections.

(a) New underground connections for irrigation systems with facilities for introduction of chemical additives or with equipment creating back pressure, must have an approved air gap separation or an approved reduced-pressure principle backflow prevention assembly installed in the line, in accordance with section 78-298

(b) New fire protection systems using chemical additives must have an approved

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air gap separation or an approved reduced-pressure principal backflow prevention assembly installed in the line in accordance with section 78-298. New fire protection lines not using chemical additives must have an approved double-check valve assembly installed in the service line in accordance with section 78-298

(c) Major modifications or major additions to water systems will be considered to be new service lines or systems for purposes of this section.

Sec. 78-296.1. Lawn irrigation systems.

New and existing irrigation systems without facilities for injection of pesticides, herbicides or other chemicals must have an approved double check valve assembly installed in accordance with section 78-298, with other provisions of this article, and with chapter 18, article V "plumbing code." The backflow assembly may be installed between the customer service line and the irrigation system.

Sec. 78-297. Inspections; correction of violations.

The customer's system should be open for inspection at all reasonable times to authorized representatives of the water department to determine whether cross connections or other structural or sanitary hazards, including violations of this article, exist. When such a condition becomes known, the director shall notify the consumer and give a reasonable period of time to correct the condition.

Sec. 78-298. Permit; installation standards.

(a) A permit must be issued by the water services department prior to the start of construction or modification of equipment subject to this article.

(b) An air gap's discharge pipe shall terminate a minimum of two pipe diameters of the discharge pipe above the flood level rim of the receiving vessel. In no case shall the distance be less than one inch.

(c) A reduced-pressure principle assembly shall not be installed upstream of a fire pump.

(d) Reduced-pressure principle backflow prevention assemblies shall be installed with no plug or additional piping affixed to the pressure differential relief valve port, except for specifically designed funnel apparatus available from the manufacturer, and with the pressure differential relief valve port a minimum of 12 inches above floor level. Additionally, the assembly shall be installed at a location where any leakage from the pressure differential relief valve port will be noticed, that allows easy access to the assembly for maintenance and testing, and that will not subject the assembly to flooding, excessive heat or freezing.

(e) Each backflow assembly shall be installed at a location that allows easy access to the assembly for maintenance and testing and that will not subject the assembly to excessive heat or freezing.

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(f) Only those models of double-check valve assemblies and reduced-pressure principle backflow prevention assemblies which are on the approved list maintained by the state department of natural resources are acceptable.

(g) Backflow prevention assemblies shall be installed on the customer water system inside the wall immediately after the meter, where the customer service line enters the building, but in all cases before the first branch, except where such placement would violate the requirement of subsection (c) of this section. Any deviations from this shall be approved in advance by the department.

(h) No bypass piping shall be allowed around a backflow prevention assembly unless the bypass is equipped with the same level of protection.

Sec. 78-299. Inspections and tests by user.

It shall be the duty of the customer-user at any premises where backflow prevention assemblies are installed to have certified inspections and operational tests made at least once per year, as well as at the time of construction or installation. In those instances where the water services department deems the hazard to be great enough, certified inspections may be required at more frequent intervals. These inspections and tests shall be at the expense of the water user and shall be performed by a tester certified by the state department of natural resources. These assemblies shall be repaired, overhauled or replaced at the expense of the customer-user whenever such assemblies are found to be defective. Records of such tests, repairs and overhaul shall be mailed to and kept by the water department for a period of five years. The report must be on an approved form and must contain the name, signature and certificate number of the certified backflow prevention assembly tester attesting to the compliance of the assembly with established operational requirements. Routine reports shall be submitted within five days after making the inspection or test.

Sec. 78-300. Exemptions from article.

(a) All presently installed backflow prevention assemblies that do not meet the requirements of this article but were approved assemblies for the purpose described in this article at the time of installation, and that have been properly maintained, shall, except for the inspection and maintenance requirements under section 78-299, be excluded from the requirements of this article so long as the director is assured that they will satisfactorily protect the utility system. Whenever the existing assembly is moved from the present location or requires more than minimum maintenance, or when the director finds that the maintenance constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this section.

(b) The water services department may issue a letter exempting a customer from the requirements of this article if the customer can document to the satisfaction of the water services department that the activities taking place at the customer's facility and the materials used in connection with these activities or stored on the premises cannot endanger the health of customers or degrade the water quality of the public water system. An exemption shall be void if it is determined that the customer's facility has become a

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backflow hazard. Those customers granted an exemption shall report to the water services department any proposed change in process, plumbing or materials used or stored at the exempted facility at least 14 days prior to making the change.

Sec. 78-301. Notice to install backflow device; compliance with decisions of director.

The director shall designate by regulation the types of premises that generally will require a backflow device under this article and shall issue any other regulations necessary to carry out the requirements of this article. The director shall mail written notice to customers whose premises fall within the designated categories in accordance with a schedule set forth in the regulations. Each notice shall give the owner of the premises a reasonable time period in which to install a backflow device, or to provide evidence to the director that the particular premises does not require a backflow device under this article. The owner may, within the allowed timeframe, request a hearing before the director. The director may request additional evidence and may inspect the premises before making a final decision. The director will notify the owner of his final decision on the necessity of a backflow prevention assembly for the particular premises. If a device is required, the owner must install the device within 90 days of the date of the director's final decision. If the owner has not installed the device or commenced judicial action for review of the director's decision within the 90-day period, the director may terminate water and sewer service to the premises.

Sec. 78-302. Compliance with article—Additional penalties.

It shall be unlawful for the owner of any premises to fail to install, or to fail to maintain, a backflow prevention device required by this article. Each day's violation of, or failure, refusal or neglect to comply with the requirements of this article shall constitute a separate and distinct offense. Any person convicted of a violation of this section shall be punished by a fine of not less than \$50.00, but not more than \$500.00.

Approved as to form and legality:

Charlotte Ferns
Assistant City Attorney