

# CHAPTER 31: WATER AND SEWER

## ARTICLE I. SEWER

### Division 1. General Provisions

- 31.001 Purpose; policy
- 31.002 Definitions
- 31.003 Damaging sewer works property
- 31.004 Falsifying documents

### Division 2. Use of Public Sewers

- 31.010 Mandatory sewer connection
- 31.011 Unlawful discharge to storm sewers or natural outlets
- 31.012 Compliance with local, state, and federal laws
- 31.013 Discharge of unpolluted waters into sewer
- 31.014 Substances which interfere with publicly owned treatment works

### Division 3. Private Wastewater Disposal

- 31.030 Public sewer not available
- 31.031 Requirements for installation

### Division 4. Building Sewers and Connections

- 31.040 Permits
- 31.041 Prohibited connections
- 31.042 Design and installation
- 31.043 Inspection

### Division 5. Pollutant Discharge Limits

- 31.060 Prohibited and restricted discharges
- 31.061 Dilution of wastewater discharge
- 31.062 Grease, oil, and sand interceptors
- 31.063 Special industrial pretreatment requirements
- 31.064 Accidental Discharge/Slug Load Control Plan
- 31.065 State requirements
- 31.066 City's right of revision
- 31.067 Federal categorical pretreatment standards; modification procedure

### Division 6. Pretreatment Program Administration

- 31.080 Permit to discharge waste required
- 31.081 Wastewater contribution permits
- 31.082 Permit modifications

- 31.083 Permit conditions/contents
- 31.084 Permit duration
- 31.085 Permit transfer
- 31.086 Compliance data reporting
- 31.087 Periodic compliance reports
- 31.088 Monitoring facilities
- 31.089 Inspection, sampling and recordkeeping
- 31.090 Pretreatment
- 31.091 Confidential information

#### Division 7. Fees

- 31.100 Purpose
- 31.101 Charges and fees

#### Division 8. Powers and Authority of Inspectors

- 31.120 Right to enter premises
- 31.121 Right to obtain information regarding discharges
- 31.122 Access to easements
- 31.123 Safety rules to be observed; liability for injuries

#### Division 9. Violations; Remedies

- 31.135 Harmful contributions; suspension of utility service; severance of significant user's water supply
- 31.136 Notice of violation
- 31.137 Demand monitoring
- 31.138 Administrative orders and remedies
- 31.139 Continuing violation
- 31.140 Suspension, modification or revocation of permit
- 31.141 Conduct of hearings

#### Division 10. Enforcement Response Guide

- 31.200 Description of terms
- 31.201 Unauthorized discharges (no permit)
- 31.202 Discharge limit violation
- 31.203 Monitoring and reporting violations
- 31.204 Other permit violations
- 31.205 Violations detected during site visits
- 31.206 Response time frames
- 31.207 Procedures for collecting evidence during emergency situations

Division 11. Rates and Charges

31.300 General requirements for sewer service charges

31.301 Sewer user rates

31.302 System Development Charges (SDC) and sewer tap on fees

**ARTICLE II. WATER**

Division 1. General Provisions

31.400 Authority to fluoridate water supply

31.401 Water shut-off valve required

31.402 Water user rates

31.403 Surcharge rate for contract water users

Division 2. Water Shortage Regulations

31.500 Purpose

31.501 Definitions

31.502 Declaration of a water shortage advisory

31.503 Declaration of a water shortage alert

31.504 Declaration of a water shortage emergency

31.505 Water shortage rates

31.506 Regulations

Division 3. Water Rationing Guidelines

31.600 Purpose

31.601 Definitions

31.602 Declaration of rationing

31.603 Objectives of rationing

31.604 Water use rationing for residential customers

31.605 Water use rationing for non-residential water customers

31.606 Water use rationing for hospitals and health care facilities

31.607 Enforcement of water rationing

31.608 Water shortage rates

31.609 Regulations

31.999 Penalty

## ARTICLE I. SEWER

### Division 1. General Provisions

#### § 31.001 PURPOSE; POLICY

- (A) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the general Pretreatment Regulations (40 CFR, Part 403).
- (B) The objectives of this chapter are:
- (1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge.
  - (2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving water or the atmosphere or otherwise be incompatible with the system.
  - (3) To improve the opportunity to recycle and reclaim wastewater and sludge from the system; and
  - (4) To provide for equitable distribution of the cost of the municipal wastewater system.
- (C) This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
- (D) This chapter shall apply to the city and to people outside the city who are, by contract or agreement with the Municipal Water and Sewer Commission users of the Municipal Water and Sewer Commission Publicly Owned Treatment **Works Plant And Logan Station Road Treatment Plant (POTW'S)**. Except as otherwise provided herein, the Manager of the Municipal Water and Sewer Commission POTW shall administer, implement, and enforce the provisions of this chapter.

(Ord. - -, passed 6-7-84)

---

Cross reference:

Inter-local cooperation agreement, see Tables of Special Ordinances, Table 5

#### § 31.002 DEFINITIONS

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

"ACT" or "THE ACT." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

"APPROVAL AUTHORITY." The Secretary of the Kentucky Natural Resources and Environmental Protection Cabinet or an authorized representative thereof.

"AUTHORIZED REPRESENTATIVE." An authorized representative of user may be:

- (A) A principal executive officer of at least the level of vice president, if the industrial user is a corporation.
- (B) A general partner or proprietor if the user is a partnership or proprietorship, respectively.
- (C) A duly authorized representative of the individual designated above is responsible for the overall operation of the facilities from which the indirect discharge originates.

An authorized representative of the city may be any person designated by the city to act on its behalf.

**"BIOCHEMICAL OXYGEN DEMAND (BOD)."** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° C. expressed in terms of weight and concentration in milligrams per liter (mg/l).

**"BUILDING DRAIN."** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

**"BUILDING SEWER."** The extension from the building drain to the public sewer or other place of disposal, also called "house extension."

**"BUILDING SEWER PERMIT."** As set forth in "Building Sewers and Connections" (§§ 31.040 through 31.043).

**"BYPASS."** The intentional diversion of waste streams from any portion of an industrial user's treatment facility.

**"CATEGORICAL STANDARDS."** National Categorical Pretreatment Standards or Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

**"CITY."** The City of Shelbyville, Kentucky, and its City Council having responsibility as owner of the POTW.

**"COMBINED WASTE STREAM FORMULA."** Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process; fixed alternative discharge limits may be derived by the Control Authority as defined in CFR Section 403.12(a).

**"COMMISSION."** The Shelbyville Municipal Water and Sewer Commission was created by ordinance of the city, enacted March 11, 1993.

**"COOLING WATER."** The water discharged from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

**"COMPATIBLE POLLUTANT."** Biochemical oxygen demand, suspended solids, and fecal coliform bacteria; plus, any additional pollutants identified in the POTW's NPDES/KPDES permit, where the POTW is designed to treat such pollutants and, in fact, does treat such pollutants to the degree required by the POTW's NPDES/KPDES permit.

**"COMPOSITE WASTEWATER SAMPLE."** A combination of individual samples of water or wastewater taken at selected intervals, generally hourly for some specified period, to minimize the effect of the variability of the individual sample. Individual samples may have equal volume or may be roughly proportioned to the flow at time of sampling.

**"CONTROL AUTHORITY."** The term "CONTROL AUTHORITY" shall refer to the "approval authority" defined herein above; or the Water and Sewer Commission if the city has an approved pretreatment program under the provisions of 40 CFR, 403.11.

**"DILUTION STREAM."** Any wastewater not generated by a process regulated for a specific pollutant by a categorical standard under 40 CFR, subchapter N.

**"DIRECT DISCHARGE."** The discharge of treated or untreated wastewater directly to the waters of the state.

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

**"ENVIRONMENTAL PROTECTION AGENCY" or "EPA."** The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designated for the Administrator or other duly authorized official of the agency.

**"EQUIPMENT."** All movable, non-fixed items necessary for the wastewater treatment process.

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

**"GARBAGE."** The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

**"GRAB SAMPLE."** A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

**"HOLDING TANK WASTE."** Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

**"INCOMPATIBLE POLLUTANT."** All pollutants other than "compatible pollutants" as defined above.

**"INDIRECT DISCHARGE."** The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S. C. 1317), into the POTW (including holding tank waste discharged into the system).

**"INDUSTRIAL USER."** A source or indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act (33 U.S.C. 1342).

**"INDUSTRIAL WASTES."** Wastewater from industrial or commercial processes is distinct from domestic or sanitary waste.

**"INSTANTANEOUS LIMIT."** The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discreet or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

**"INTERCEPTOR."** A device designed and installed to separate and retain deleterious, hazardous, or undesirable matter from normal waste while permitting normal sewage or liquid wastes to discharge into the sewer system or drainage system by gravity. "INTERCEPTOR" as defined herein is commonly referred to as a grease, oil, or sand trap.

**"INTERFERENCE."** The inhibition or disruption of the POTW treatment processes or operations or which contributes to a violation of any requirement of the city's NPDES/KPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guideline, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to the Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

**"MANAGER."** The person employed by the Commission as Manager of the entire municipal water and sewer system or his authorized deputy, agent, or representative.

**"MAXIMUM DAILY CONCENTRATION."** The maximum concentration of a pollutant is based on the analytical results obtained from a 24-hour composite sample.

**"MULTI-UNIT SEWER CUSTOMER."** A location served where there are two (2) or more residential units or apartments, two (2) or more businesses in the same building or complex, or where there is any combination of business and residence in the same building or complex.

**"NATURAL OUTLET."** Any outlet, including storm sewers, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"*NEW SOURCE.*" Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 3117) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

"*NATIONAL (OR KENTUCKY) POLLUTANT DISCHARGE ELIMINATION SYSTEM*" or "*NPDES/KPDES PERMIT.*" A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1332), or a permit issued by the state under this authority and referred to as KPDES.

"*OPERATION AND MAINTENANCE EXPENSES.*" All annual operation and maintenance expenses including replacement related directly to operating and maintaining the sewage works as shown by annual audit.

"*PERSON.*" Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, and the singular shall include the plural were indicated by the context.

"*ph*" The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

"*POLLUTION.*" The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

"*POLLUTANT.*" Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

"*POTW TREATMENT PLANT.*" That portion of the POTW is designed to provide treatment to wastewater.

"*PRETREATMENT*" or "*TREATMENT.*" The reduction of the number of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes by other means, except as prohibited by CFR Section 403.6(d).

"*PROHIBITIVE DISCHARGE STANDARD.*" Any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403. (5).

"*PROPERLY SHREDDED GARBAGE.*" The wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.

"*PUBLICLY OWNED TREATMENT WORKS (POTW).*" A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW'S treatment plant but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "*POTW*" shall also include any sewers that convey wastewater to the POTW from a person or person outside the city who are, by contract or agreement with the city, users of the city's POTW'S. **POTW consists of the Shelbyville Waste Water Treatment Plant and the Logan Station Road Waste Water Treatment Plant.**

"*PUBLIC SEWER.*" A common sewer controlled by a governmental agency or public utility. In general, the public should include the main sewer in the street and the service branch to the curb or property line, or a main sewer on private property and the service branch to the extent of ownership by public authority.

"*REPLACEMENT.*" Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

"**SANITARY SEWER.**" A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.

"**SEVERE PROPERTY DAMAGE.**" Substantial physical damage to property, damage to the treatment facilities which cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property loss does not mean economic loss caused by delays in production.

"**SEWAGE.**" The water spent in a community. Domestic or sanitary waste shall mean the liquid or water carried waste from residences, commercial buildings, and institutions as distinct from industrial sewage. The terms "**SEWAGE**" and "**WASTEWATER**" are used interchangeably.

"**SEWAGE SYSTEM**" or "**WORKS.**" All facilities for collecting, transporting, pumping, treating and disposing of sewage and sludge, namely the sewerage system and POTW.

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

"**SEWER USER CHARGES.**" A system of charges levied on users of a POTW for the cost of operation and maintenance, including replacement, of such works.

"**SIGNIFICANT NONCOMPLIANCE.**" In accordance with 40 CFR 403.8(f)(2)(vii), an industrial user is in significant noncompliance (SNC) if its violation meets one (1) or more of the following:

- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken during a six (6) month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
- (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent(33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (C) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel) or the public.
- (D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or the environment or has resulted in the POTW's exercise of its emergency authority under Paragraph 40 CFR 403.8(i)(vi)(B) to halt or prevent such a discharge.
- (E) Failure to meet, within ninety (90) days after the schedule date a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining a final compliance.
- (F) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- (G) Failure to accurately report noncompliance.
- (H) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

"**SIGNIFICANT USER.**" Any user of the city's wastewater disposal system who:

- (A) Has a discharge flow of 25,000 gallons or more per average work day.
- (B) It has a flow greater than 5% of the flow in the city's wastewater treatment system.
- (C) Has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act or state statutes and rules.

(D) Is found by the city, state control agency, or the U.S. Environmental Protection Agency (EPA) to have significant impact either singly or in combination with other contributing uses, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system; or

(E) It is classified as a categorical industry according to federal regulation.

"*SLUG LOAD* or *SLUG DISCHARGE*." Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 31.060 of this chapter. A "*SLUG DISCHARGE*" is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge which has a reasonable potential to cause interference or Pass Through, or in any other way violate the POTW's regulations, local limits or permit conditions.

"*STATE*." The Commonwealth of Kentucky.

"*STANDARD METHODS*." The examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water and Wastewater," published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation and as set forth in the Congressional Record 40 CFR 136.

"*STANDARD INDUSTRIAL CLASSIFICATION (SIC)*." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, U.S. Bureau of the Budget, 1972.

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

"*STORM WATER*." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

"*SURCHARGE*." A charge for services in addition to the basic sewer user and debt service charges.

"*SUSPENDED SOLIDS (TSS)*." Total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.

"*TOXIC POLLUTANT*." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of CWA Section 307(a) or other Acts.

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

"*USER*." Any person who contributes, causes, or permits the contribution of wastewater into the POTW.

"*WASTEWATER*." The water spent of a community. Sanitary or domestic wastes shall mean the liquid and water-carried wastes from residences, commercial buildings, and institutions as distinct from industrial waste.

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

"*WASTEWATER TREATMENT WORKS*." An arrangement of devices and structures for treating wastewater, industrial waste, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant" or "sewage treatment plant".

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

"*WATERS OF THE STATE.*" All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation system, drainage system, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

"*WASTEWATER CONTRIBUTION PERMIT.*" As set forth in the administration section of this chapter.

(B) The following abbreviations shall have the designated meanings:

ADMI - American Dye Manufacturers Institute

BOD - Biochemical oxygen demand

CFR - Code of Federal Regulations

CWA - Clean Water Act of 1979

EPA - Environmental Protection Agency

l - Liter

mg - Milligrams

mg/l - Milligrams per liter

NPDES - National Pollutant Discharge Elimination System

KPDES - Kentucky Pollutant Discharge Elimination System

POTW - Publicly Owned Treatment Works

SIC - Standard Industrial Classification

SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.

TSS - Total suspended solids

USC - United States Code

(Ord. - -, passed 6-7-84; Am. Ord. 91-07-18, 7-18-91; Am. Ord. 93-08-19A, passed 8-19-93)

### **§ 31.003 DAMAGING SEWER WORKS PROPERTY**

No person or persons shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is part of the POTW. Any person violating this provision shall be subject to arrest under charge of criminal mischief.

(Ord. - -, passed 6-7-84)

### **§ 31.004 FALSIFYING DOCUMENTS**

No person shall knowingly make any false statement, representation, or certification of any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or wastewater contribution permit, or falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this chapter.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

## **Division 2. Use of Public Sewers**

### **§ 31.010 MANDATORY SEWER CONNECTION**

(A) The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-

way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so, provided that the public sewer is within one hundred (100) feet (30.5 meters) of the property line.

- (B) It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater where public sanitary sewer service is available, as defined in § 31.002, except as provided for in §§ 31.030 and 31.031.
- (C) When a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer system in compliance with this chapter, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material or salvaged and removed.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

### **§ 31.011 UNLAWFUL DISCHARGE TO STORM SEWERS OR NATURAL OUTLETS**

- (A) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city or into any sewer which connects to the storm sewer system of the city an objectionable wastewater or industrial wastes.
- (B) It shall be unlawful to discharge any natural outlet within the city or in any area under the jurisdiction of the city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the subsequent provisions of this chapter. No provision of this chapter shall be construed to relieve the owner of a discharge to any natural outlet of the responsibility for complying with applicable state and federal regulations governing such discharge.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

### **§ 31.012 COMPLIANCE WITH LOCAL, STATE, AND FEDERAL LAWS**

The discharge of any wastewater into the public sewer system by any person is unlawful except in compliance with the provisions of this chapter, and any more stringent state or federal standards promulgated pursuant to the Federal Water Pollution Control Act, Amendments of 1972, the Clean Water Act of 1977, and subsequent amendments.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

### **§ 31.013 DISCHARGE OF UNPOLLUTED WATERS INTO SEWER**

- (A) No person or persons shall discharge or cause to be discharged through any leak, defect, or connection any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sanitary sewer, building sewer, building drain, or building plumbing. The Manager or his representative shall have the right, at any time, to inspect the inside or outside of buildings or smoke test for connections, leaks, or defects to building sewers, and require disconnecting or repair of any pipes carrying such water to the building sewer. No sanitary drain sump or sump pump discharge by manual switch-over of discharge connection shall have dual use for removal of such water.
- (B) Stormwater, groundwater, and all other unpolluted drainage may be discharged to such sewers are used as storm sewers approved by the city and other regulatory agencies. Unpolluted cooling water or unpolluted process waters may be discharged, on approval of the city and other regulatory agencies to a storm sewer or natural outlet.

- (C) The owners of any building sewers having such connections, leaks, or defects shall bear all costs incidental to removal of such sources.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

**§ 31.014 SUBSTANCES WHICH INTERFERE WITH PUBLICLY OWNED TREATMENT WORKS**

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards of requirements. A user shall not contribute the following substances to any POTW:

- (A) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, any other substances which the city, the state, or EPA has notified the user is a fire hazard or a hazard to the system.
- (B) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.
- (C) Any waters or wastes having a pH lower than 6.0 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the POTW;
- (D) Any slug load or pollutants, including oxygen demanding pollutants (BOD, and the like), released at flow or concentration that will cause interference.
- (E) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshing, entrails, and paper dishes, cups, milk containers, and the like, either whole or ground; spent lime, stone or marble dust, grass clippings, spent grains, spent hops, waste paper, gas, asphalt residues, unground garbage, residues from refining or processing of fuel or lubricating oil, or glass grinding or polishing wastes;
- (F) Any wastewater with objectionable color not removable in the POTW, but in no case, wastewater with color at the introduction into the POTW that exceeds 300 ADMI units.
- (G) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW that will result in a treatment plant influent temperature which exceeds 104<sup>°</sup>F. (40<sup>°</sup>C.);
- (H) Any wastewater which at the introduction into the POTW has a temperature of more than 150<sup>°</sup>F. (65<sup>°</sup>C.);

- (I) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance or repair.
- (J) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludge, or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used;
- (K) Any substance which will cause the POTW to violate its NPDES/KPDES or sludge disposal system permit or the receiving water quality standards.
- (L) Any wastewater containing any radioactive waste or isotopes of such half-life or concentration as may exceed limits established by the Manager in compliance with applicable state or federal regulations; or
- (M) Any wastewater which causes a hazard to human life or creates a public nuisance.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

### **Division 3. Private Wastewater Disposal**

#### **§ 31.030 PUBLIC SEWER NOT AVAILABLE**

- (A) Where a public sanitary sewer is not available under the provisions of § 31.010 through 31.014, the building sewer shall be connected, until the public sewer system is available to a private wastewater disposal system complying with all applicable regulations and requirements of the County Department of Health, and all appropriate state agencies.
- (B) The owner shall always operate and maintain the private sewage disposal facilities in a sanitary manner, at no expense to the city.
- (C) No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by applicable local or state regulations.
- (D) Industries with current NPDES/KPDES permits may discharge at permitted discharge points provided they are in compliance with the conditions of the permit.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

#### **§ 31.031 REQUIREMENTS FOR INSTALLATION**

- (A) The type, capacity, location, and layout of a private sewage disposal system shall comply with all local or state regulations.
- (B) A private sewage disposal system shall not become operative until the installation is completed to the satisfaction of the local and state authorities, if required. They shall be allowed to inspect the work at any stage of construction.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

## **Division 4. Building Sewers and Connections**

### **§ 31.040 PERMITS**

- (A) There shall be two (2) classes of building sewer permits required.
  - (1) Residential service.
  - (2) Service to commercial and industrial establishments.
- (B) In either case, the owner or owners or his agent shall make an application on a special form furnished by the city. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste-producing activities, wastewater characteristics and constituents. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Manager. Details regarding commercial and industrial permits include, but are not limited to, those required by this chapter. Permit and inspection fees shall be paid to the Water and Sewer Commission at the time the application is filed.
- (C) Users shall notify the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.
- (D) No unauthorized person or persons shall uncover, plug, or make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written permission from the Manager.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

### **§ 31.041 PROHIBITED CONNECTIONS**

- (A) No person shall make connections of roof downspouts, basement drains, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of this chapter shall be completely and permanently disconnected within sixty (60) days of the effective date of this chapter. The owner or owners of any building sewers having such connections, leaks, or defects shall bear all costs incidental to removal of such sources. Pipes, sumps, and pumps for such sources of ground and surface water shall be separate from wastewater facilities. Removal of such sources of water without presence of separate facilities shall be evidence of drainage to the public sanitary sewer.
- (B) Floor, basement, or crawl space drains which are lower than ground surfaces surrounding the building shall not be connected to the building sanitary sewer. No sanitary inlet which is lower than six (6) inches above the top of the lowest of the two (2) adjacent public sanitary sewer manholes shall be connected by direct drainage to the building sanitary sewer.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

### **§ 31.042 DESIGN AND INSTALLATION**

- (A) A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. The Water and Sewer Commission does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
- (B) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Manager, to meet all requirements of this chapter. Permit and

inspection fees for new buildings using existing building sewers shall be the same as for new building sewers. If additional sewer consumers are added to the old building sewers, additional sewer tap fees shall be charged accordingly even though no new sewer tap is actually made into the city system.

- (C) Extension of customer service lines from any point on the customer's side of the tap for delivery of waste from any location other than that of the customer whose name the tap is registered shall not be permitted.
- (D) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the local and state building and plumbing codes and other applicable rules and regulations of the city, and the Commission's "Standard Specifications for Water and Sewer Line Construction." In the absence of local code provisions or amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.
- (E) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city and the Commission for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Fees for connection shall be as established by the city.
- (F) The owner shall ensure that all excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.
- (G) In all buildings in which any sanitary facility drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by an approved means and discharged to the building sewer. Drainpipe and sump for collection of such sanitary drainage shall be above the basement floor or in a separately watertight or drained sump or channel.
- (H) In cases where it is necessary to connect a building sewer directly to a sewer main the tap shall be made by employees of the Commission, and the actual cost thereof shall be paid by the applicant. The applicant is responsible for uncovering the sewer main and for backfilling the trench once the tap is completed. Where it is necessary to cut a street, the applicant shall obtain a permit from the city and shall open and close the trench in conformance with city specifications.
- (I) All building sanitary sewer lines will be installed so as to meet or exceed the most current revision of the State Plumbing Code.
- (J) All persons working on city sewers with a cleaning rod must use an approved type rod in cleaning sewer connections to city sewers.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

### **§ 31.043 INSPECTION**

- (A) The applicant for the building sewer permit shall notify the Manager when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Manager or his representative. All connections shall be made gas-tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Manager before installation.
- (B) All building sewers shall be smoke tested through the wye-branch at the public sewer connection, with the public sewer tightly plugged off, after connections at both ends are made and after all pipe is properly bedded and backfilled at least to the top of the pipe and if backfill is completed, within two (2) weeks after completion of backfill. At the time of the test any openings into the building drain inside the building shall be water trapped or plugged. Any leakage of smoke from

the building sewer or building drain and plumbing shall be located at the test and repaired to stand repetition of the smoke test without leakage. When smoke testing is completed, the temporary flow line plug shall be removed, and a permanent watertight plug shall be placed in the test wye-branch and carefully backfilled by hand and tamped to at least six (6) inches above the top of the branch.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

## **Division 5. Pollutant Discharge Limits**

### **§ 31.060 PROHIBITED AND RESTRICTED DISCHARGES**

#### *(A) General prohibitions.*

- (1) A user may not introduce into a POTW any pollutant(s) which cause pass through or interference. These general prohibitions and the specific prohibitions in paragraph (B) of this section apply to each user introducing pollutants into a POTW whether or not the user is subject to other national pretreatment standards or any national state, or local pretreatment requirements.
- (2) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process; constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act.

#### *(B) Specific prohibitions.*

- (1) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flash point of less than 140° F. or 60° C. using test methods specified in 40 CFR 261.21.

At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and any other substances which the city, state or EPA has notified the user is a fire hazard or a hazard to the system.

- (2) Any waters or wastes having a pH lower than 6.0 or higher than 10.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the POTW.
- (3) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the Pot resulting in interference.
- (4) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- (5) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40° C. (104° F.) unless the approval authority, upon request of the POTW, approves alternate temperature limits.
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW.
- (9) Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of processed water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The Commission may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.
- (10) If an existing industrial user adds or changes a process or operation which may be included in pretreatment standard subcategory, the existing industrial user must request this certification prior to commencing discharge from the added or changed process or operation. A new source must request this certification prior to commencing discharge.
- (11) Wastewater from industrial plants or commercial businesses containing floatable oils, fat, or grease, whether emulsified or not, in excess of (100 mg/l) or containing substances which may solidify or become viscous at temperatures 32-150° F. (0-65° C.).
- (12) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, motels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers. The installation and operation of any garbage grinder equipped with a 3/4 HP motor or greater shall be subject to review and approval.
- (13) Any water or waste containing odor-producing substances exceeding limits which may be established by the Commission.
- (14) Any radioactive waste or isotopes of such half-life or concentration may exceed limits established by the Commission in compliance with applicable state or federal regulations.
- (15) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- (16) Any waters or wastes containing cadmium, chromium, copper, cyanide, iron, lead, nickel, zinc, PCB, or similar objectionable or toxic substances to such a level that prevent the use of acceptable sludge disposal methods, or pass through the treatment process unremoved and at such concentration that causes a violation of effluent limitations or water quality standards which are or may be established by state and federal agencies having jurisdiction.
- (17) Waters or wastes containing substances which are not amendable to treatment or reduction by the wastewater treatment process employed, or are amendable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (18) Any waste or wastewater classified as a hazardous waste by the Resource Conservation and Recovery Act (RCRA) without at least, a sixty (60) day prior notification of such discharge to the Superintendent of the POTW. This notification must include the name of the waste, EPA hazardous waste number, type of discharge, volume/mass of discharge and time of occurrence. The Manager may deny or condition this discharge at any time.

(C) *Restricted discharges.*

The following described substances, materials, waters or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process, or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Water and Sewer Commission may set additional limitations or alter the limitations established in the regulations below. In forming its opinion as to the acceptability, the Commission shall give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, and other pertinent factors, such as phosphorous removal to meet discharge limitations. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer shall not be violated without written approval of the Commission.

- (1) Any water or waste which has characteristics based on a 24-hour composite sample, or a shorter period composite sample if more representative which exceed the following normal maximum domestic wastewater parameter concentrations:

**Parameter Maximum Allowable Concentration Without Surcharge**

BOD	250 mg/l
TSS	250 mg/l
NH <sub>3</sub> -N	25 mg/l

- (2) The following limitations are established for characteristics of any wastewaters to be discharged into the municipal sewer system:

<b><u>Parameter</u></b>	<b><u>Limit (mg/l)</u></b>
Arsenic	0.30
Cadmium, total	0.024
Chlorides, total	6,000
Chromium, hexavalent	0.29
Chromium, total	2.25
Copper, total	0.35
Cyanide, total	0.06
Iron, total	25
Lead, total	0.15
Mercury, total	0.0005
Nickel, total	0.35
Oils & Grease, Total	150
pH	6.0-10
Phenols	15
Selenium	0.05
Silver	0.20
Sulfate, total	1,500

**Water Temperature****150 Degrees F**

Zinc

1.50

- (3) Where an effluent from an industrial process is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived for the discharge permit by the Manager. These alternative limits may be calculated using the Combined Waste stream Formula and/or Flow-weighted Average Formula set out in 40 CFR 403.6(a). Where the effluent limits in a categorical pretreatment standard are expressed only in terms of mass of pollutants per unit of production (production-based standard), the Manager may convert the limits to equivalent limitations expressed either in mass of pollutant that may be discharged per day or of effluent concentrations for purposes of calculating effluent permit limitations applicable to the permittee. The permittee shall be subject to all permit limits calculated in this manner under 40 CFR 403.6(c) and must fully comply with these alternative limits. All categorical industrial users subject to production-based standards must report production rates annually so that alternative permit limits can be calculated if necessary. The categorical industrial user must notify the Manager thirty (30) days in advance of any change in production levels that might affect the flow or other data used to calculate the effluent limits in the discharge permit.

(Ord. - -, passed 6-7-84; Am. Ord. 91-07-18, passed 7-18-91; Am. Ord. 93-08-19, passed 8-19-93; Am. Ord. 97-11-20, passed - - ; Am. Ord. 98-12-03, passed 12-3-98; Am. Ord. 2001-02-21(B), passed 2-21- 02; Am. Ord. 2007-03-15, passed 3-15-07; Am. Ord. 2015-10-08(A), passed 10-8-15; Am. Ord. 2019-09-019, passed 9-19-19)

**§ 31.061 DILUTION OF WASTEWATER DISCHARGE**

No 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 the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant specific limitation developed by the Water and Sewer Commission, city or state. Dilution may be permitted to pretreatment of compatible wastes if provided for in the users permit.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

**§ 31.062 GREASE, OIL, AND SAND INTERCEPTORS**

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Manager they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that those interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Manager and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal. The Water and Sewer Commission may require reporting of the information for their review. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms. Interceptors shall also comply with applicable regulations of the County Health Department.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

**§ 31.063 SPECIAL INDUSTRIAL PRETREATMENT REQUIREMENTS**

- (A) Pursuant to the requirements imposed on publicly owned wastewater treatment works by the Federal Water Pollution Control Act Amendments of 1972 and later amendments, all pretreatment standards promulgated by the U.S. Environmental Protection Agency for new and existing industrial dischargers to public sewer systems are hereby made a part of this chapter. Any

industrial waste discharge which violates these EPA Pretreatment Standards shall be in violation of this chapter.

- (B) Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner or owners at his expense.
- (C) Hauling liquid wastes.
  - (1) Any person who transports septic tank, seepage pit, or cesspool contents, liquid industrial waste, or other batch liquid waste and wishes to discharge that waste to the public sewer system shall first obtain written permission for the discharge from the Manager. All persons receiving the permission shall abide by all applicable provisions of this chapter, and any other special provisions that may be established by the Manager as necessary for the proper operation and maintenance of the sewerage system.
  - (2) Waste haulers who have been granted permission to discharge to the public sewer system shall pay fees for the discharge in accordance with a fee schedule established by the Commission and approved by the city.
  - (3) It shall be illegal to discharge any batch liquid waste into any manhole or other part of the public sewer system, or any building sewer or other facility that discharges to the public sewer system, except at designated points of discharge specified by the Manager for those purposes.
  - (4) Any liquid waste hauler caught illegally discharging to the public sewer system shall be subject to immediate revocation of discharge privileges (if granted) and further subject to the penalties prescribed in § 31.999.
  - (5) Nothing in this chapter shall relieve waste haulers of the responsibility for compliance with County Health Department, state or federal regulations.
- (D) Bypass not violating applicable pretreatment standards or requirements.
  - (1) An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (2) and (3) of this section.
  - (2) Notice.
    - (a) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, if possible, at least ten (10) days before the date of the bypass.
    - (b) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Control Authority within twenty-four (24) hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times; and, if the bypass has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate, and prevent re-occurrence of bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
  - (3) Prohibition of bypass.
    - (a) Bypass is prohibited, and the Control Authority may take enforcement action against an Industrial User for a bypass unless:

- (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
  - (iii) The Industrial User submitted notices as required under paragraph (a) of this section.
- (b) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three (3) conditions listed in paragraph (3)(a) of this section.
- (E) No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment provided applicable local, state, and federal pretreatment regulations of the city's NPDES/KPDES permit are not violated.

Ord. - -, passed 6-7-84; Am. Ord. 91-07-18, passed 7-18-91) Penalty, see § 31.999

#### **§ 31.064 ACCIDENTAL DISCHARGE/SLUG DISCHARGE CONTROL PLANS**

- (A) The Manager and/or Director of Wastewater Operations shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The Manager and/or the Director of Wastewater Operations may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the Manager and/or the Director of Wastewater Operations may develop such a plan for any user. An accidental discharge/slug control discharge control plan shall address, at a minimum, the following:
- (1) Description of discharge practices, including non-routine batch discharges;
  - (2) Description of stored chemicals;
  - (3) Procedures for immediately notifying the Manager and/or the Director of Wastewater Operations of any accidental or slug discharge, as required by this section, subsection (B) below; and
  - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
- (B) Each significant user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Water and Sewer Commission for review, and shall be approved by the Commission before construction of the facility. All existing users shall complete this plan within ninety (90) days after the effective date of this chapter. Construction shall be completed within one hundred eighty (180) days of approval of plans and notification by the Manager. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this

chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

- (C) *Written notice.* Within five (5) days following an accidental discharge, the user shall submit to the Commission a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrence. This notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall this notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this subchapter or other applicable law.
- (D) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. - -, passed 6-7-84; Am. Ord. 2011-11-03, passed 11-3-11)

### **§ 31.065 STATE REQUIREMENTS**

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.

(Ord. - -, passed 6-7-84)

### **§ 31.066 CITY'S RIGHT OF REVISION**

The city reserves the right at the recommendation of the Water and Sewer Commission to establish by majority vote of its Council, more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in this chapter.

(Ord. - -, passed 6-7-84)

### **§ 31.067 FEDERAL CATEGORICAL PRETREATMENT STANDARDS; MODIFICATION PROCEDURE**

- (A) Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The Manager shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.
- (B) When the city's wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the city may apply to the approval authority for modification of specific limits in the Federal Pretreatment Standards. Consistent removal shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in 95% of the samples taken when measured according to the procedures set forth in Section 403(7)(c)(2) of (Title 40 of the Code of Federal Regulations, Part 403) "General Pretreatment Regulations for Existing and New Source of Pollution" promulgated pursuant to the Act. The city may modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR, Part 403, Section 403(7), are fulfilled and prior approval from the approval authority is obtained.

(Ord. - -, passed 6-7-84)

## **Division 6. Pretreatment Program Administration**

### **§ 31.080 PERMIT TO DISCHARGE WASTES REQUIRED**

It shall be unlawful to discharge without a permit to any natural outlet within the city, or in any area under the jurisdiction of the city, or to the POTW any wastewater except as authorized by the Manager in accordance with the provisions of this chapter.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

### **§ 31.081 WASTEWATER CONTRIBUTION PERMITS**

- (A) All significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater contribution permit before connecting to or contributing to the POTW. All existing significant users connected to or contributing to the POTW shall obtain a wastewater contribution permit within ninety (90) days after the effective date of this chapter.
- (B) Permit application. Users required to obtain a wastewater contribution permit shall complete and file with the Water and Sewer Commission, an application in the form prescribed by the Commission, and accompanied by a permit fee. Existing users shall apply for a wastewater contribution permit within thirty (30) days after the effective date of this chapter, and proposed new users shall apply at least thirty (30) days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following evaluation:
  - (1) Name, address, and location if different from the address;
  - (2) SIC numbers according to the Standard Industrial Classification Manual, United States Bureau of Economic Analysis, 1972, as amended;
  - (3) Wastewater constituents and characteristics as determined by an analytical laboratory acceptable to the Commission; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;
  - (4) Time and duration of contribution;
  - (5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly, and seasonal variation if any;
  - (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation;
  - (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
  - (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional pretreatment is required for the user to meet applicable pretreatment standards;
  - (9) If additional pretreatment will be required to meet the pretreatment standards; the shortest schedule by which the user will provide the additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard; the following conditions shall apply to this schedule:
    - (a) The schedule must be acceptable to the Commission.
    - (b) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards.

(c) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Commission including, as a minimum, whether or not it complied with the increment of progress to be met on that date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the users to return the construction to the schedule established.

(10) Each product produced by type, amount, process or processes, and rate of production;

(11) Type and amount of raw materials processed (average and maximum per day);

(12) Number of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

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

(C) A Baseline Monitoring Report (BMR) must be submitted to the Manager by all categorical industrial users at least ninety (90) days prior to initiation of discharge to the sanitary sewer. The BMR must contain, at a minimum, the following:

(1) Production data including a process description, SIC code number, raw materials used, chemicals used, and final product(s) produced;

(2) Name of facility contact person;

(3) Wastewater characteristics such as total plant flow, types of discharges, average and maximum flows from each process;

(4) Nature and concentration of pollutants discharged to the public sewer system that are regulated by this chapter, state and/or federal pretreatment standards and sample type and location;

(5) Information concerning any pretreatment equipment used to treat the facility's discharge; and

(6) New source categorical shall comply with standards upon commencement of discharge.

(D) The Commission shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Commission may issue a wastewater contribution permit subject to terms and conditions provided herein.

(Ord. - -, passed 6-7-84; Am. Ord. 91-07-18, passed 7-18-91)

### **§ 31.082 PERMIT MODIFICATIONS**

Within nine (9) months of the promulgation of National Categorical Pretreatment Standards, the wastewater contribution permit of users subject to those standards shall be revised to require compliance with that standard within the time frame prescribed by that standard. Where a user, subject to National Categorical Pretreatment Standards, has not previously submitted an application for a wastewater contribution permit as required, the user shall apply for a wastewater contribution permit within ninety (90) days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing wastewater contribution permit shall submit to the Water and Sewer Commission within ninety (90) days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by this chapter.

(Ord. - -, passed 6-7-84)

### **§ 31.083 PERMIT CONDITIONS/CONTENTS**

Wastewater contribution permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges, and fees established by the Water and Sewer Commission.

- (A) An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Manager to prevent Pass Through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW. Individual wastewater discharge permits must contain:
- (1) A statement that indicates the wastewater discharge permit issuance date;
  - (2) A statement that the wastewater discharge permit is non-transferable without prior notification to the Commission in accordance with § 31.085, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
  - (3) Effluent limits, including Best Management Practices based on applicable pretreatment standards;
  - (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law.
  - (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time of compliance beyond that required by applicable federal, state, or local law.
  - (6) Requirements to control slug discharge, if determined by the Director of Wastewater Operations to be necessary.
- (B) Permits may also contain the following:
- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to community sewer;
  - (2) Limits on the average and maximum wastewater constituents and characteristics;
  - (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
  - (4) Requirements for installation and maintenance of inspection and sampling facilities;
  - (5) Specifications for monitoring programs which may include sampling locations; frequency of sampling; number, types, and standards for tests; and reporting schedule;
  - (6) Compliance schedules;
  - (7) Requirements for submission of technical reports or discharge reports;
  - (8) Requirements for maintaining and retaining for a minimum of three (3) years plant records relating to wastewater discharge as specified by the Commission, and affording Commission access thereto;
  - (9) Requirements for notification of the Commission or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
  - (10) Requirements for notification of slug discharges;

- (11) The permit may require the user to reimburse the Commission for all expenses related to monitoring, sampling, and testing performed at the direction of the Manager and deemed necessary by the Commission to verify that the user is in compliance with the permit; and
- (12) Other conditions as deemed appropriate by the Commission to ensure compliance with this chapter.

(Ord. - -, passed 6-7-84; Am. Ord. 2011-11-03, passed 11-3-11)

#### **§ 31.084 PERMIT DURATION**

Permits shall be issued for a specified time period, normally one (1) year, but in any event not to exceed three (3) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall file a new "Application for Wastewater Contribution Permit" at least every five (5) years. The terms and conditions of the permit may be subject to modification by the Water and Sewer Commission during the term of the permit as limitations or requirements as identified in §§ 31.060 through 31.067 are modified or other just cause exists. The user shall be informed of any proposed changes in their permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(Ord. - -, passed 6-7-84; Am. Ord. 2011-11-03, passed 11-3-11)

#### **§ 31.085 PERMIT TRANSFER**

Wastewater contribution permits are issued to a specific user for a specification operation. A wastewater contribution permit shall not be reassigned or transferred to or sold to a new owner, new user, different premises, or a new or change operation without the approval of the Water and Sewer Commission. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(Ord. - -, passed 6-7-84) Penalty, see § 31.999

#### **§ 31.086 COMPLIANCE DATA REPORTING**

Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new user, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Water and Sewer Commission a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by the pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional pretreatment and time schedule is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the user.

(Ord. - -, passed 6-7-84)

#### **§ 31.087 PERIODIC COMPLIANCE REPORTS**

(A) (1) Any user subject to a pretreatment standard, after the compliance date of the pretreatment standard, or, in the case of a new user, after commencement of the discharge into the POTW shall submit to the Water and Sewer Commission no less than twice per year unless the Commission samples and provides analyses for the User, or unless required more frequently in the pretreatment standard or by the wastewater contribution permit, a report indicating the nature and concentration, of pollutants in the effluent which are limited by the pretreatment standards, and the measured or estimated average and maximum daily flows for the reporting period. Significant Industrial Users are required to perform four (4) consecutive day testing during the months of June and December, with reporting to the Commission in July and January. In addition, this report shall include a record of all measured or estimated average and daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a

Best Management Practice (BMP) or pollution alternative, the User must submit documentation required by the Manager and/or Director of Wastewater Operations or the Pretreatment Standard necessary to determine the compliance status of the User.. At the discretion of the Commission and in consideration of those factors as local high or low flow rates, holidays, budget cycles, and the like, the Commission may agree to alter the months during which the above reports are to be submitted.

(2) Significant Industrial Users must notify the Manager and/or Director of Wastewater Operations violations of restricted discharge limitations within twenty-four (24) hours of becoming aware of the violations. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to Manager and/or Director of Wastewater Operations within thirty (30) days after becoming aware of the violation(s). If the Commission performed the sampling analysis in lieu of the Industrial user, the Commission may perform the repeat sampling and analysis. In this case, resampling by the Industrial User is not required if the Commission performs sampling at the User's facility at least once a month, or if the Commission performs sampling at the User between the time when the initial sampling was conducted and the time when the User and the Commission receives the result of this sampling, or if the Commission has performed the sampling and analysis in lieu of the Industrial User. The Commission may notify the Industrial User of the violation and require the Industrial User to start demand monitoring in accordance with § 31.137. If the Commission performed the sampling and analysis in lieu of the Industrial user, the Commission shall perform the repeat sampling and analysis unless it notifies the User of the violation and requires the user to perform the repeat sampling and analysis. Any discharges of prohibited discharges shall be reported immediately in accordance with § 31.060.

(3) Significant Industrial Users are required to notify the Manager and/or Director of Wastewater Operations immediately of any changes at its facility affecting the potential for a slug discharge.

(B) The Commission may impose mass limitations on users where their imposition is appropriate. In those cases, the report required by subsection (A) above shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Commission of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analyses shall be performed by a laboratory acceptable to the Commission. Analytical procedures shall be in accordance with procedures established by the U.S. EPA Administrator pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the U.S. EPA Administrator. Sampling shall be performed in accordance with the techniques approved by the U.S. EPA Administrator.

(C) Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the U.S. EPA Administrator.

(D) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim the sampling results are unrepresentative of its discharge.

(Ord. - -, passed 6-7-84; Am. Ord. 91-07-18, passed 7-18-91; Am. Ord. 2011-11-03, passed 11-3-11)

### **§ 31.088 MONITORING FACILITIES**

(A) The Water and Sewer Commission shall require significant users to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage system. The monitoring facility should normally be situated on the user's premises, but the Commission may, when that location would be impractical or cause undue hardship on the user, allow the facility to be constructed in a public right-of-way. The Manager shall review

and approve the location, plans, and specifications for all monitoring facilities and may require them to be constructed to provide for the separate monitoring and sampling of industrial waste and sanitary sewage flows.

(B) There shall be ample room in or near the sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(C) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Commission's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following approval of the location, plans, and specifications.

(D) Significant Industrial Users shall receive prior approval from the Manager prior to making a change in a monitoring location.

(Ord. - -, passed 6-7-84, Am. Ord. 91-07-18, passed 7-18-91)

### **§ 31.089 INSPECTION, SAMPLING AND RECORD KEEPING**

(A) The Water and Sewer Commission shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Commission or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, copying records, records examination, or in the performance of any of their duties.

(B) Any industrial user or user subject to the reporting requirements established in this section shall be required to retain for a minimum of three (3) years any records of monitoring activities and results (whether or not such monitoring activities are required by this section). This period of retention shall be extended during the course of any unsolved litigation regarding the industrial user or POTW, or other state or federal enforcement agency.

(C) The Commission, approval authority, and EPA shall have the right to set up on the user's property those devices as are necessary to conduct sampling inspection, compliance monitoring, or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements for their security guards so that upon presentation of suitable identification, personnel from the Commission, approval authority, and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(D) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period. The Commission shall indicate the frequency of monitoring necessary to assess and assure compliance by the user with applicable pretreatment standards and requirements, as found in the User's Wastewater Contribution permit, or through required demand monitoring, if necessary.

(1) Except as indicates in subsection (D)(2) and (D)(3) below, the User must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Manager, or Director of Wastewater Operations. Where time-proportional composite sampling or grab sampling is authorized by the Commission, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in CFR Part 136 and appropriate EPA guidance, and when approved, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the composting procedures as documented in approved EPA

methodologies may be authorized by the Commission as appropriate. In addition, grab sample may be required to show compliance with instantaneous limits.

(2) Samples for oil and grease, temperature, pH, Cyanide, Total Phenols, Sulfides, and Volatile Organic Compounds must be obtained using grab collection techniques.

(3) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required under § 31.081 (40 CFR 403.12(b) and (d)), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data are available, the Manager, or Director of Wastewater Operations may authorize a lower minimum. For the reports required by § 31.087 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(E) Date of receipts of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed postage prepaid into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(F) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under § 31.087(A). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the Commission, or where the User has been specifically notified of a longer retention period by the Manager, or Director of Wastewater Operations.

(G) Certification of permit applications user reports and initial monitoring waiver. The following certification statement is required to be submitted by Users submitting permit applications, Users submitting baseline monitoring reports, Users submitting compliance reports with the categorical pretreatment standard deadlines, Users submitting periodic compliance reports, and Users submitting an initial request to forego sampling of a pollutant. The following certification statement must be signed by an authorized representative:

I certify under penalty of law that this document and all attachments were prepared under my 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 is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(Ord. - -, passed 6-7-84; Am. Ord. 91-07-18, passed 7-18-91; Am. Ord. 2011-11-03, passed 11-3-11)

### **§ 31.090 PRETREATMENT**

(A) Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the Water and Sewer Commission shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Commission for review, and shall be acceptable to the plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Commission under the provisions of this chapter. Any subsequent changes in the

pretreatment facilities or method of operation shall be reported to and be acceptable to the Commission prior to the user's initiation of the changes.

(B) The Commission is required by federal regulation to keep the public informed of all cases of significant violation. To accomplish this, the Commission shall publish, at least annually in the area's largest daily newspaper, the names of users significantly violating pretreatment standards or requirements during the previous twelve (12) months. A significant violation shall meet one or more of the following conditions:

- (1) Results in the exercise of emergency authority;
- (2) Remains uncorrected forty-five (45) days after notice of noncompliance is given; or
- (3) Involves failure to report accurately.
- (4) Chronically exceed wastewater pollution limits which are defined as those in which sixty-six percent(66%) or more of all of the measurements taken for the same pollutant during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined;
- (5) Technical Review Criteria (TRC) violations which are defined as those in which thirty-three percent(33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits as defined, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease and 1.2 for all other pollutants except pH);
- (6) Any other violation of a Pretreatment Standard of Requirement as defined (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Manager and/or Director of Wastewater Operations determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health or POTW personnel or the general public);
- (7) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph 40 CFR 403.8(f)(i)(vi)(a) to halt or prevent such a discharge;
- (8) Failure to meet, within ninety (90) days after the schedule date a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (9) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (10) Failure to accurately report noncompliance; or
- (11) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

(C) The notification shall also summarize any enforcement actions taken against the user or users during the same twelve (12) months.

(D) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

(Ord. - -, passed 6-7-84; Am. Ord. 91-07-18, passed 7-18-91; Am. Ord. 2011-11-03, passed 11-3-11)

### **§ 31.091 CONFIDENTIAL INFORMATION**

(A) (1) In accordance with 40 CFR part 2, any information submitted to the Commission pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the

time of submission by stamping the words "confidential business information" on each page containing the information. If no claim is made at the time of submission, the Commission may make the information available to the public without further notice.

(2) Data provided to the Commission pursuant to this part which is effluent data shall be available to the public without restriction.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the NPDES/KPDES permit, sludge disposal system permit or the pretreatment programs. However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information.

(C) Information accepted by the Commission as confidential, shall not be transmitted to any governmental agency or to the general public by the Commission until and unless a ten (10) day notification is given to the user.

(Ord. - -, passed 6-7-84; Am. Ord. 91-07-18, passed 7-18-91)

## **Division 7. Fees**

### **§ 31.100 PURPOSE**

This subchapter provides for the recovery of costs from users of the POTW for the implementation of the program established herein. The applicable charges or fees shall be set forth in the Water and Sewer Commission's schedule of charges and fees.

(Ord. - -, passed 6-7-84)

### **§ 31.101 CHARGES AND FEES**

(A) The Water and Sewer Commission may adopt charges and fees which may include:

- (1) Fees for reimbursement of costs of setting up and operating the Commission's pretreatment program;
- (2) Fees for monitoring, inspections, and surveillance procedures;
- (3) Fees for reviewing accidental discharge procedures and construction;
- (4) Fees for permit applications;
- (5) Fees for filing appeals;
- (6) Fees for consistent removal by the POTW of pollutants otherwise subject to federal pretreatment standards; or
- (7) Other fees as the Commission may deem necessary to carry out the requirements contained herein.

(B) These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the Commission.

(Ord. - -, passed 6-7-84)

## **Division 8. Powers and Authority of Inspectors**

### **§ 31.120 RIGHT TO ENTER PREMISES**

The Manager and other duly authorized employees and representatives of the Water and Sewer Commission and authorized representatives of applicable federal and state regulatory agencies bearing proper credentials and identification shall be permitted to enter all property for the purpose of inspection, observation, measurement, sampling, and testing pertinent to discharges to the public sewer system in accordance with the provisions of this chapter.

(Ord. - -, passed 6-7-84)

### **§ 31.121 RIGHT TO OBTAIN INFORMATION REGARDING DISCHARGES**

The Manager and other duly authorized employees and representatives are authorized to obtain information concerning character, strength, and quantity of industrial wastes which have a direct bearing on the kind and source of discharge to the wastewater collection system, including inspection, sampling, photocopying of records, and records examination.

(Ord. - -, passed 6-7-84; Am. Ord. 91-07-18, passed 7-18-91)

### **§ 31.122 ACCESS TO EASEMENTS**

(A) Duly authorized employees and representatives of the Water and Sewer Commission bearing proper credentials and identification shall be permitted to enter all private properties through which the Commission or the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within that easement.

(B) All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. - -, passed 6-7-84)

### **§ 31.123 SAFETY RULES TO BE OBSERVED; LIABILITY FOR INJURIES**

While performing the necessary work on private properties referred to in § 31.120, the Manager or duly authorized employees of the Water and Sewer Commission shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the Commission employees, and the Commission shall indemnify the company against loss or damage to its property by Commission employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 31.088.

(Ord. - -, passed 6-7-84)

## **Division 9. Violations; Remedies**

### **§ 31.135 HARMFUL CONTRIBUTIONS; SUSPENSION OF UTILITY SERVICE; SEVERANCE OF SIGNIFICANT USER'S WATER SUPPLY**

- (A) In addition to its other duties and authority, the Commission shall have authority to:
- (1) Require compliance with applicable provisions of this chapter;
  - (2) Obtain remedies for violations of this chapter;
  - (3) Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, discharged to the POTW by users where such contributions do not meet applicable

limits and restrictions of this chapter, or where such contributions would cause the POTW to violate its KPDES permit;

- (4) Control through permit, order or other similar means, the contribution to the POTW by each user to ensure compliance with the provisions of this chapter;
  - (5) Carry out inspections, surveillance and monitoring procedures necessary to determine, independent of information supplied by the user, compliance or noncompliance with the applicable provisions of this chapter; and
  - (6) Obtain remedies for noncompliance with this chapter.
- (B) When the Commission finds that a discharge of wastewater in violation of this chapter or a permit or order hereunder has taken place, the Commission may issue an order to cease and desist, and direct those users not complying with such prohibitions, restrictions, provisions, permit or order hereunder to comply forthwith or comply in accordance with a time schedule set forth by the Commission. The Commission may also issue an order to the user to take appropriate remedial or preventative action in the case of a threatened violation.
- (C) The Commission may terminate service after appropriate notice to property on which violations of any provision of this chapter or a permit or order hereunder are found to exist, and the Commission will have all remedies available for the collection of costs for termination as for the collection of sewer service charges.
- (D) Whenever a violator fails to comply with orders to obey or prevent a violation of this chapter or causes or otherwise threatens to cause a hazard to public health or damage to the POTW facilities or the environment, the Commission may petition a court of competent jurisdiction for the issuance of a temporary or permanent injunction, or both, as may be appropriate, in restraining such discharge.
- (E) The Commission will have all remedies available to collect costs, fines and losses resulting from the violation (and/or ensuing enforcement action) as are available for sewer service charges. In the event that such collection efforts fail, the Commission may institute a civil action in a court of competent jurisdiction for the recovery of the costs, fines and losses.

(Ord. - -, passed 6-7-84; Am. Ord. 89-10-002, passed 10-19-89; Am. Ord. 91-07-18, passed 7-18-91; Am. Ord. 2001-12-06, passed 12-6-01)

### **§ 31.136 NOTICE OF VIOLATION**

(A) If the Manager of the Commission or his or her designee has evidence that any person has violated or is violating this chapter, or any permit or order issued hereunder, the Manager shall serve that person with a written Notice of Violation. The Notice of Violation shall contain the following information, if applicable:

- (1) The date of issuance;
- (2) The name and address of the person or user to whom the Notice of Violation is issued;
- (3) The date the offense was committed;
- (4) The facts constituting the offense;
- (5) The section of the chapter, permit or order violated;
- (6) The administrative fine, penalties, remedial action or other sanctions that will be imposed for the violation if the person does not contest the Notice of Violation, if any;
- (7) The procedure for the person to follow in order to pay the administrative fine or to contest the Notice of Violation; and

(8) A statement that if the person fails to pay the administrative fine set forth in the Notice of Violation or contest the Notice of Violation, within the time allowed, the person shall be deemed to have waived the right to a hearing before the Commission to contest the Notice of Violation and that the determination that a violation was committed shall be final.

(B) When the Manager finds that a user has violated or contributed to a violation of this chapter or a permit or order issued hereunder, the Manager may also issue a Notice of Violation directing that, following a specified time period, sewer service will be disconnected unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated. Notices of Violation may also contain such other requirements as might be reasonably necessary to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring reports, and management practices, which will hereafter be referred to as remedial action.

(C) When a Notice of Violation is issued, the person or user to whom the Notice of Violation is issued shall respond to the Notice of Violation within twenty (20) days of the date the Notice of Violation is issued by either paying the administrative fine and agreeing to the remedial action set forth in the Notice of Violation or requesting, in writing, a hearing before the Commission to contest the Notice of Violation. If the person fails to respond to the Notice of Violation within ten (10) days, the person shall be deemed to have waived the right to a hearing to contest the Notice of Violation and the determination that a violation was committed shall be considered final. If the person or user to whom the Notice of Violation is issued does not request a hearing as provided by this section, the Notice of Violation shall be deemed a final order of the Commission and shall be deemed to have complied with the requirements of subsection (G) of this section.

(D) (1) When a hearing before the Commission has been requested, the Commission shall schedule a hearing. Not less than ten (10) days before the date set for the hearing, the Commission shall notify the person who requested the hearing of the date, time and place of the hearing. The notice of hearing shall include:

- a. A statement of the date, time and place of the hearing;
- b. A description of the violation;
- c. Citation to the ordinance, permit, or order alleged to have been violated; and
- d. A statement that the parties to the hearing, including the Commission, may be represented by counsel at the hearing and shall have the right to examine and cross-examine witnesses at the hearing.

(2) The notice may be given by certified mail, return receipt requested, or by personal delivery. Any person requesting a hearing before the Commission who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the Notice of Violation and the determination that a violation was committed shall be final. In this event, the Commission shall enter a final order determining that the violation was committed and imposing the administrative fine set forth in the Notice of Violation.

(E) When a hearing is held, the Commission shall determine, based on the evidence presented, whether a violation was committed. The Commission shall take testimony from the Manager or an authorized representative, the alleged offender, and any witnesses to the alleged violation offered by the Manager, or an authorized representative, or the alleged offender. All testimony shall be under oath and shall be recorded.

(F) If the Commission determines that no violation was committed, an order dismissing the Notice of Violation shall be entered. If the Commission determines that a violation has been committed, the Commission shall issue a final order upholding the Notice of Violation and may order the offender to pay an administrative fine in an amount up to the maximum authorized by the ordinance, and may order the offender to remedy a continuing violation within a specified time to avoid the imposition of an additional fine, or both.

(G) Every final order of the Commission shall be reduced in writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the Notice of Violation. If the person named in the Notice of Violation is not present at the time the final order of the Commission is issued, the order shall be delivered to that person by certified mail, return receipt requested, or by personal delivery. The Commission's final order shall be deemed a final agency action.

(Ord. - -, passed 6-7-84; Am. Ord. 2001-12-06, passed 12-6-01; Am. Ord. 2011-11-03, passed 11-3-11)

### **§ 31.137 DEMAND MONITORING**

(A) In addition to any other monitoring requirements imposed by this chapter or state or federal law, the Manager of the Commission or his or her designee may order a user to conduct additional monitoring of the user's wastewater discharge as specified by the Manager or designee. This additional monitoring is also referred to as "demand monitoring". The Commission may notify a user of the requirement of demand monitoring through a Notice of Violation, Administrative Order, or through the terms of the permit. If the Commission's notice of demand monitoring is given through the terms of the permit, the Commission shall give the user at least thirty (30) days advance notice of said demand monitoring. If demand monitoring is imposed through a Notice of Violation or Administrative Order, the notice of demand monitoring shall include the following information:

- (1) The date of issuance of the Notice of Violation or Administrative Order;
- (2) The name and address of the person, or user to whom the Notice of Violation or Administrative Order is issued;
- (3) A brief statement of the additional monitoring required;
- (4) A brief statement of the reasons the additional monitoring is required; and
- (5) A statement that if the person fails to request a hearing within the time allowed, the person shall be deemed to have waived the right to a hearing to contest the notice of additional monitoring.

(B) The person or user of whom the demand monitoring is required may request a hearing before the Commission to contest the requirement to conduct additional monitoring. If a hearing is not requested within twenty (20) days of the date of Notice of Violation or Administrative Order, the person or user to whom the Notice of Violation or Administrative Order was directed shall be deemed to have waived the right to a hearing. If, following a hearing, the person or user who was directed by the Manager or his or her designee to conduct additional monitoring is not found to be in violation of this chapter or any permit or order issued hereunder, then the Commission shall reimburse the person or user for the laboratory costs of sampling or testing incurred as a result of any additional monitoring carried out pursuant to the Notice of Violation or Administrative Order that was the subject to the hearing.

(C) Notwithstanding a person or a user's request for a hearing pursuant to this section, if a Notice of Violation includes a requirement of demand monitoring, the user must begin demand monitoring within the time requirements set forth in the Notice of Violation or Administrative Order.

(Ord. 2001-12-06, passed 12-6-01)

### **§ 31.138 ADMINISTRATIVE ORDERS AND REMEDIES**

(A) The Manager may enter into consent orders, assurances of voluntary compliance, or other similar agreements with an industrial user responsible for noncompliance to ensure a return to compliance. Such orders will include specific actions to be taken by the user to abate the noncompliance within a specified time period. Such orders may also stipulate damages or administrative fines to be paid by the user.

(B) Nothing in this section shall prohibit the Manager from taking immediate action to remedy any violation of this chapter when there is reason to believe that the existence of a violation presents a serious threat to the public health, safety, and welfare, or if in the absence of immediate action, the effects of the

violation will be irreparable or irreversible. The Manager also may order any industrial user which causes or contributes to a violation of this chapter, or of a permit or order hereunder, to appear at a meeting to show cause why a proposed enforcement action should not be taken. The notice of any such meeting will be served personally or by certified mail (return receipt requested) at least ten (10) days before the date of the meeting. Such notice may be served on any user or on its authorized agent. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

(C) Notwithstanding any other provisions herein, whenever the Manager finds that any person is causing, engaging in or maintaining a condition or activity which, in its judgment presents a danger to the health or welfare of the public, the POTW facilities, or the environment, or will cause interference with the POTW or cause the Commission to violate any condition of its KPDES, the Manager may, without prior hearing, order such person, in writing, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity. As soon as reasonably possible thereafter, the Commission shall provide the person an opportunity to be heard and to present evidence that such condition or activity does not violate the provisions of this chapter.

(Ord. 2001-12-06, passed 12-6-01)

### **§ 31.139 CONTINUING VIOLATION**

Any person who willfully continues any violation beyond the time limit provided for shall be guilty of a violation of this chapter, and upon conviction thereof, shall be fined in accordance with § 31.999. Each day in which a violation shall continue shall be deemed a separate offense. In addition to the penalties provided herein, the Water and Sewer Commission may recover reasonable attorney's fees, court costs, court report's fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder.

(Ord. - -, passed 6-7-84)

### **§ 31.140 SUSPENSION, MODIFICATION OR REVOCATION OF PERMIT**

(A) Any user who violates any of the following, or violates the conditions of this chapter or application state or federal regulations, or a permit or order issued hereunder, is subject to having its permit suspended, modified, or revoked in accordance with the procedures of this chapter:

- (1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;
- (4) Other good cause.

(B) The Commission may also suspend, modify or revoke the wastewater treatment service and/or wastewater discharge permit of a user after appropriate notice whenever such action is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of the public, the POTW facilities, or the environment, or presenting or causing interference with the POTW or the Commission to violate any condition of its KPDES. Any user notified of a suspension or revocation of service or of its permit shall immediately stop or eliminate its contribution. In the event that the user fails to immediately comply with the suspension, modification or revocation order, the Commission shall take such steps as necessary, including immediate severance of the property service connection, to prevent or minimize the damage to the receiving waters, the POTW facilities, or public health. The Commission may allow the user to recommence discharge and/or service may recommence, at user's expense, after the endangerment has passed and the user has satisfactorily demonstrated consistent compliance. A detailed written statement submitted by the user describing the

causes of any harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Commission within fifteen (15) days of the date of occurrence.

(C) An existing permit, which is being renewed in the ordinary course of business, may be amended, modified, suspended or revoked or additional requirements or limitations may be placed upon the permit holder, but only after the holder of the permit, and all other interested parties, have been given thirty (30) days notice of the Commission's intent to do so. The Manager of the Commission or his or her designee shall respond to reasonable requests for information from users regarding the reason(s) for a modification of an existing permit.

(D) The user may request, in writing, a hearing before the Commission to contest the suspension, modification, or revocation of an existing permit within twenty (20) days after receipt of notice of such action, and the Commission shall schedule a hearing upon appropriate request. Not less than ten (10) days before the date set for the hearing, the Commission shall notify the person who requested the hearing of the date, time and place of the hearing. The notice may be given by certified mail, return receipt requested, or by personal delivery.

(E) At the hearing, the Commission shall determine, based on the evidence presented, whether the decision to suspend, modify or revoke the permit is supported by the evidence, and shall issue an order accordingly. The Commission shall accept testimony from the Manager or an authorized representative, and the industrial user or an authorized representative, and any witness offered by the Manager or the industrial user. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Any final order of the

Commission shall be reduced in writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the permit. If the person named in the permit is not present at the time the final order of the Commission is issued, the order shall be delivered to the person by certified, return receipt requested, or by personal delivery. The Commission's final order shall be deemed a final agency action.

(Ord. - -, passed 6-7-84; Am. Ord. 2001-12-06, passed 12-6-01)

### **§ 31.141 CONDUCT OF HEARINGS**

(A) The Commission shall preside over all hearings hereunder and shall regulate the course of the proceedings in a manner which will promote the orderly and prompt conduct of the hearing.

(B) The Commission shall afford all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence.

(C) Any party to a hearing may participate in person or be represented by counsel.

(D) Any party properly served with a notice of hearing who fails to attend or participate in the hearing maybe held in default.

(E) Any party shall have the right to inspect, at least five (5) days prior to the hearing, a list of all witnesses the other party expects to call at the hearing, and the available documentary or tangible evidence relating to a hearing either in person or by counsel.

(F) At the hearing, the formal rules of evidence need not be observed provided that all evidence shall be of the type of evidence on which reasonable and prudent persons would rely in their daily affairs, and in any event does not deprive a party of due process of law.

(G) All hearings, evidence, testimony and pleadings before the Commission shall be subject to both the Kentucky Open Records Act and the Kentucky Open Meetings Act, including the confidentiality provisions of both Acts.

(H) At the hearing, the burden of proof and of going forward shall be on the party proposing to impose fines or other sanctions, to require remedial action, or to amend, modify, revoke, or suspend any

existing permit or permit which is being renewed. The burden of persuasion shall be by a preponderance of the evidence. Proof that any amendment, modification, suspension or revocation of any existing permit or permit that is being renewed is expressly required by any federal or state statute or regulation to which the Commission or the Commission's activities are subject shall meet the burden of proof. (Ord. 2001-12-06, passed 12-6-01)

---

Cross reference:

Public records, see Ch. 25

Public meetings, see Ch. 26

## **Division 10. Enforcement Response Guide**

### **§ 31.200 DESCRIPTION OF TERMS**

Terms and abbreviations used in the Enforcement Response Guide are defined below. Specific enforcement responses that appear in this guide are described in more detail in the following sections.

"AO": Administrative Order

"*Civil Litigation*": Civil litigation against the industrial user seeking equitable relief, monetary penalties and actual damages.

"*Criminal Litigation*": Pursuing punitive measures against an individual and/or organization through a court of law.

"*Fine*": Monetary penalty assessed by Control Authority officials. Fines should be assessed by the Manager.

"I": Inspector.

"IU": Industrial User.

"*Meeting*": Informal compliance with the IU to resolve recurring noncompliance.

"NOV": Notice of Violation.

"M": Manager.

"S": Superintendent.

"AM": Assistant Manager.

"SV": Significant Violation.

"*Show Cause*": Formal meeting requiring the IU to appear and demonstrate why the Control Authority should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

The Manager may delegate to the Wastewater Treatment Plant Superintendent and Assistant Manager the authority for investigation of violations and implementation of the appropriate enforcement response under the terms of the Enforcement Response Guide.

(Ord. 91-07-18, passed 7-18-91)

**§ 31.201 UNAUTHORIZED DISCHARGES (NO PERMIT)**

<b>NONCOMPLIANCE</b>	<b>NATURE OF THE VIOLATION</b>	<b>ENFORCEMENT RESPONSES</b>	<b>PERSONNEL</b>
(A) Unpermitted discharge	IU unaware of application form requirement; <u>no harm</u> to POTW	Phone call; NOV with application form	M
	IU unaware of application form requirement; <u>harm</u> to POTW	-AO with fine -Civil action	M M
	Failure to apply continues after notice by POTW	-Civil action	M
	IU has submitted application within 10 days of due date	-Criminal investigation -Terminate Service	M M
	(B) Non-permitted discharge	IU has submitted application within 10 days of due date	Phone call; NOV

(Ord. 91-07-18, passed 7-18-91)

**§ 31.202 DISCHARGE LIMIT VIOLATION**

<b>NONCOMPLIANCE</b>	<b>NATURE OF THE VIOLATION</b>	<b>ENFORCEMENT RESPONSES</b>	<b>PERSONNEL</b>
Exceedance of local or Federal Standard (permit limit)	Isolated, not significant	Phone call; NOV	M
	Isolated, significant (no harm)	AO to develop spill prevention plan and fine	M
	Isolated, harm to POTW or environment	-Show cause order -Civil action	M M
Exceedance of local or Federal Standard	Recurring, no harm to POTW/environment	AO with fine	M
	Recurring, significant harm	-AO with fine	M
		-Show cause order	M
		-Civil action -Terminate service	M M

(Ord. 91-07-18, passed 7-18-91)

**§ 31.203 MONITORING AND REPORTING VIOLATIONS**

<b>NONCOMPLIANCE</b>	<b>NATURE OF THE VIOLATION</b>	<b>ENFORCEMENT RESPONSES</b>	<b>PERSONNEL</b>
(A) Reporting violation	Report is improperly signed or certified	-Phone call or NOV	M
	Report is improperly signed or certified after notice by POTW	- AO - Show cause	M M
	Isolated, not significant (e.g., 5 days late)	- Phone call/NOV	M
	Significant (e.g., report 30 days or more late)	-AO to submit with fine per additional day	M
	Reports are always late or no reports at all	- AO with fine - Show cause - Civil action	M M M
Reporting Violation	Failure to report spill or changed discharge (no harm)	NOV	M
	Failure to report spill or changed discharge (results in harm)	- AO with fine - Civil action	M M
	Repeated failure to report spills	- Show cause order - Terminate service	M M
	Falsification	- Criminal investigation - Terminate service	M M
	(B) Failure to monitor correctly	Failure to monitor all pollutants as required by permit	NOV or AO
Recurring failure to monitor		- AO with fine - Civil action	M M
(C) Improper sampling	Evidence of intent	- Criminal investigation - Terminate service	M M
	Delay of less than 30 days	NOV	M
(D) Failure to install		-Civil action	M
	Recurring, violation of AO	-Criminal investigation -Terminate service	M M
	Missed milestone by less than 30 days, or will not affect final milestone	NOV or AO with fine	M
(E) Compliance Schedules	Missed milestone by more than 30 days, or will affect final milestone (good cause for delay)	-AO with fine	M
	Missed milestone by more than 30 days, or will effect final milestone (no good cause for delay)	- Show cause order - Civil action -Terminate service	M M M
		- Civil action	M
	Recurring violation or violation of schedule in AO	-Criminal investigation -Terminate service	M M

(Ord. 91-07-18, passed 7-18-91)

**§ 31.204 OTHER PERMIT VIOLATIONS**

<b>NONCOMPLIANCE</b>	<b>NATURE OF THE VIOLATION</b>	<b>ENFORCEMENT RESPONSES</b>	<b>PERSONNEL</b>
(A) Non-compliances are diluted in lieu of treatment	Initial violation	AO with fine	M
	Recurring	- Show cause order - Terminate service - NOV	M M M
(B) Failure to mitigate noncompliance or halt production	<b>Does not</b> result in harm		
	<b>Does</b> result in harm	- AO with fine - Civil action	M M
(C) Failure to properly operate and maintain pretreatment facility	See No. 2 above		

(Ord. 91-07-18, passed 7-18-91)

**§ 31.205 VIOLATIONS DETECTED DURING SITE VISITS**

<b>NONCOMPLIANCE</b>	<b>NATURE OF THE VIOLATION</b>	<b>ENFORCEMENT RESPONSES</b>	<b>PERSONNEL</b>
(A) Entry Denial	Entry denied or consent withdrawn; copies of records denied	Obtain warrant and deliver to IU	M
	No harm to POTW or environment	AO with fine -Civil action	M M
(B) Illegal discharge	Discharges cause harm or evidence of intent/negligence	-Criminal investigation	M
	Recurring, violation of AO	- Terminate service	M
	Unintentional sampling at incorrect location	NOV	M
(C) Improper sampling	Unintentionally using incorrect sample type	NOV	M
	Unintentionally using incorrect sample collection techniques	NOV	M
(D) Inadequate record-keeping	Inspector finds file incomplete to missing (no evidence of intent)	NOV	M
	Recurring	-AO with fine	M
(E) Failure to report additional monitoring	Inspection finds additional files	- NOV	M
	Recurring	-AO with fine	M

Note: At the discretion of the Manager the Assistant Manager or the WWTP Superintendent may perform these functions.

(Ord. 91-07-18, passed 7-18-91)

## **§ 31.206 RESPONSE TIME FRAMES**

- (A) All violations will be identified and documented within seven (7) days of receiving compliance information.
- (B) Initial enforcement responses (involving contact with the industrial user and requesting information on corrective or preventative action(s)) will occur within seven (7) days of violation detection.
- (C) Follow-up actions for continuing or recurring violations will be taken within thirty to forty-five (30-45) days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.
- (D) The violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
- (E) All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within thirty (30) days of the identification of significant noncompliance.

(Ord. 91-07-18, passed 7-18-91)

## **§ 31.207 PROCEDURES FOR COLLECTING EVIDENCE DURING EMERGENCY SITUATIONS**

- (A) The Wastewater Treatment Plant Superintendent is responsible for collecting evidence during emergency situations. Additionally, the Superintendent shall, through the Assistant Manager, solicit assistance from the Distribution Department, if extra manpower is required.
- (B) The Superintendent shall maintain a procedure to determine the source from which the violation occurs. This procedure includes:
  - (1) Determining from plant effluent "East or West" direction.
  - (2) By using sewer maps, continue to isolate the collection systems until the source is discovered.
  - (3) When the source is discovered at least two (2) personnel will be present to collect samples, including preparation of chain of custody form. The source will be notified immediately of the findings and will be allowed to split samples for their own analysis.
  - (4) The Wastewater Treatment Plant Superintendent will immediately notify the laboratory (certified by the State of Kentucky) if an analysis is required, and proper sample presentation protocol will be followed until pickup is made.
  - (5) The Manager will then determine remedial action appropriately using the Enforcement Response Guide.

(Ord. 91-07-18, passed 7-18-91)

## **Division 11. Rates and Charges**

### **§ 31.300 GENERAL REQUIREMENTS FOR SEWER SERVICE CHARGES**

- (A) Sewer service charges shall be charges levied on all users who discharge, cause or permit the discharge of sewage into the public sewage treatment system. Rates or charges for sewer service shall be based upon the quantity of water measured by the water meter supplied to the respective building or premises.
- (B) Sewer service charges shall be comprised of a system of user charges, excessive strength surcharges, a system of charges for debt service and may include return on investment.
- (C) User charges shall mean charges levied on users of the sewage system to offset the cost of operations and maintenance of the system including simple replacement costs.

- (D) Excessive strength surcharges mean charges levied on users of the sewage treatment system whose contributions contain conventional pollutants in concentrations which exceed the limits specified herein for such pollutants and who are permitted to make such contributions to the system by decision of the Municipal Water and Sewer Commission. In the event that the Commission shall permit a user to discharge waste to the sewage works having an average biochemical demand (BOD5) in excess of 250 mg/l, and/or an average suspended solids (TSS) content in excess of 250 mg/l, and/or an average ammonia nitrogen (NH3 N) content in excess of 25 mg/l, the user shall pay a surcharge based upon the excess strength of its wastes.
- (E) Charges for debt service shall mean charges levied on users of the sewage treatment system to support the annual debt service obligations of the system.
- (F) No reduction in sewage service charges, fees, or taxes shall be permitted because of the fact that certain wastes discharged to the sewage works contain less than the 250 mg/l of BOD5, 250 mg/l of TSS, or 25 mg/l NH3-N.
- (G) The Commission shall review not less than every two (2) years the sewage contribution of users, and the total cost of operation and maintenance of the sewage works, and user charges. Based on such a review, the Commission shall recommend to the city, when necessary, a revised schedule of user charges which shall accomplish the following:
  - (1) Maintain the proportionate distribution of operations and maintenance costs among users of the treatment system.
  - (2) Generate sufficient revenues to offset the costs associated with the proper operation and maintenance of the system, including depreciation expense (through renewal and replacement costs) and transfers.
  - (3) Generate sufficient revenues to support the annual debt service of the system.
  - (4) Review excessive strength surcharges every two (2) years.

(Ord. 94-07-21, passed - -; Am. Ord. 96-03-07(B), passed 3-21-96; Am. Ord. 2002-12-05(A), passed 12-0502; Am. Ord. 2004-06-03, passed 6-3-04; Am. Ord. 2005-06-16, passed 6-16-05; Am. Ord. 2007-6-21(B), passed 6-21-07; Am. Ord. 2008-12-04, passed 12-4-08; Am. Ord. 2011-02-03, passed 2-3-11; Am. Ord. 2015-07-02, passed 7-2-15; Am. Ord. 2016-12-15, passed 12-15-16; Am. Ord. 2018-12-06, passed 12-0618; Am. Ord. 2020-03-05, passed 3-5-20; Am. Ord. 2021-03-18, passed 3-18-21)

**§ 31.301 SEWER USER RATES**

(A) That from and after **July 1, 2025** Billing (for water used during and after mid-**May 2025**), there shall be and is hereby established the following Water Rate Schedule (First 1,000 gallon below as shown is for a 5/8" meter):

- (1) For customers who are both within the city limits of Shelbyville, Kentucky, and within the City water service area:

First 1,000 gallons used per month	<b>\$12.07 per 1,000 gals.</b>
Next 9,000 gallons used per month	<b>\$3.24 per 1,000 gals.</b>
Next 15,000 gallons used per month	<b>\$3.10 per 1,000 gals.</b>
All over 25,000 gallons used per month	<b>\$2.91 per 1,000 gals.</b>

- (2) For customers who are within that area extending south of I-64, then east and west and being served by the water mains constructed in 1978 and additions thereto (defined as the Finchville Rate Area), and within the city water service area:

First 1,000 gallons used per month	<b>\$16.76 per 1,000 gals.</b>
Next 9,000 gallons used per month	<b>\$4.62 per 1,000 gals.</b>
Next 15,000 gallons used per month	<b>\$3.90 per 1,000 gals.</b>
All over 25,000 gallons used per month	<b>\$3.47 per 1,000 gals.</b>

(3) For customers who are outside city limits but not in Finchville Rate Area, and are within the city water service area:

First 1,000 gallons used per month	<b>\$13.86 per 1,000 gals.</b>
Next 9,000 gallons used per month	<b>\$3.76 per 1,000 gals.</b>
Next 15,000 gallons used per month	<b>\$3.54 per 1,000 gals.</b>
All over 25,000 gallons used per month	<b>\$3.33 per 1,000 gals.</b>

(4) Minimum monthly charges for meters larger than 5/8", and 1,000 gallons or less used each month:

Meter Size	Inside City	Outside City	Finchville Area
1"	<b>\$15.77</b>	<b>\$18.12</b>	<b>\$22.24</b>
1-1/2"	<b>\$19.70</b>	<b>\$22.63</b>	<b>\$28.02</b>
2"	<b>\$30.52</b>	<b>\$35.08</b>	<b>\$43.98</b>
3"	<b>\$110.37</b>	<b>\$126.91</b>	<b>\$161.36</b>
4"	<b>\$139.83</b>	<b>\$161.04</b>	<b>\$204.69</b>
6"	<b>\$204.66</b>	<b>\$240.26</b>	<b>N.A.</b>

(5) Commercial haulers:

- A. Inside City **\$3.67 per 1,000 gal**
- B. Outside City **\$5.24 per 1,000 gal**

(6) Water Districts:

- A. West Shelby Water District **\$2.62 per 1,000 gal**
- B. West Shelby Water District Finchville **\$2.89 per 1,000 gal**

1. There shall be a \$1.00 surcharge for each 1,000 gallons of water purchased by West Shelby that is above 12 million gallons during and calendar billing month.

- C. North Shelby Water District **\$2.53 per 1,000 gals**
- D. US 60 Water District **\$2.53 per 1,000 gals**  
of Shelby and Franklin Counties, Kentucky

E. Quantities over the respective Contract Limits shall be charged the normal Rate, plus: \$1.00 per 1,000 gal.

(7) Fire Protection:

Service for public fire hydrants outside the city limits of Shelbyville shall be provided at the rate of **\$1.25** per month for each customer living within 1,000 feet of a hydrant.

Service for private fire hydrants outside the city limits of Shelbyville shall be charged at the rate of **\$8.50** per month.

Service for sprinkler systems shall be charged at the rate of **\$0.0042** per square foot per month of building sprinkled.

(B) That from and after the **July 1, 2025** Billing (for water/sewer used during and after **mid-May 2025**), there shall be and is hereby established the following Sewer Rate Schedule.

(1) For customers who are within the city limits of Shelbyville, Kentucky, and within the city sewer service area:

First	1,000 gallons used per month	<b>\$11.46 per 1,000 gals.</b>
Next	9,000 gallons used per month	<b>\$3.86 per 1,000 gals.</b>
All over	10,000 gallons used per month	<b>\$3.79 per 1,000 gals.</b>

(2) For customers who are outside the city limits of Shelbyville, Kentucky, and within the city sewer service area:

First	1,000 gallons used per month	<b>\$13.19 per 1,000 gals.</b>
Next	9,000 gallons used per month	<b>\$4.44 per 1,000 gals.</b>
All over	10,000 gallons used per month	<b>\$4.33 per 1,000 gals.</b>

Sewer surcharges for excessive strength wastewater as defined in the Sewer Use Ordinance No. 91-07-18, § 31.060, paragraph (C)(1), shall be as follows:

<b>Parameter</b>	<b>Allowable Concentration</b>	<b>Charge Per Pound in Excess Above Allowable</b>
BOD	250 mg/l	<del>\$0.81</del> <b>\$0.95</b>
TSS	250 mg/l	<del>\$0.81</del> <b>\$0.95</b>
NH(3)-N	25 mg/l	<del>\$1.82</del> <b>\$2.40</b>

(C) *Automatic annual increases to sewer rates and charges.* This section establishes an annual cost of living increase to be calculated effective July 1 of each year (beginning with the July 1, 2022 billing), on which date the then current rates may automatically be increased by up to two and one-half percent (2.5%) for sewer if deemed necessary by the Commission. Should the Commission determine a rate increase is necessary, it shall provide written notice of same to the Shelbyville City Council on or before April 30 preceding said date for the increase to take effect, and the Shelbyville City Council may, by vote taken on or before May 15 preceding said date for the increase to take effect, vote to waive all or any portion of the increase for that year.

(Ord. 94-07-21, passed - -; Am. Ord. 96-03-07(B), passed 3-21-96; Am. Ord. 98-04-16(A), passed 4-16-98; Am. Ord. 2002-12-05(A), passed 12-5-02; Am. Ord. 2003-03-06, passed 3-6-03; Am. Ord. 2004-06-03, passed 6-3-04; Am. Ord. 2005-06-16, passed 6-16-05; Am. Ord. 2007-06-21(B), passed 6-21-07; Am. Ord. 2008-12-04, passed 12-4-08; Am. Ord. 2011-02-03, passed 2-3-11; Am. Ord. 2012-12-20, passed 12-20-12; Am. Ord. 2014-12-18, passed 12-18-14; Am. Ord. 2015-07-02, passed 7- 2-15; Am. Ord. 2016-12-15, passed 12-15-16; Am. Ord. 2018-12-06, passed 12-06-18; Am. Ord. 2020-03-05, passed 3-5-20; Am. Ord. 2021-03-18, passed 3-18-21)

**§ 31.302 SYSTEM DEVELOPMENT CHARGES (SDC) AND SEWER TAP ON FEES**

(A) *Purpose and policy.*

(1) This section sets forth uniform requirements for financing capital improvements to the water and sewer systems to serve growth and at the same time prevent or reduce the inequity to existing customers that would result when the existing customers must pay for the increases in water or sewer rates that are needed to pay for added plant costs for new customers.

(2) The method chosen to establish the system development charge is based on the premise that new customers are entitled to water and/or sewer services at the same rates charged to existing customers. However, it is also recognized that existing customers have provided funds for debt retirement, cash financing of improvements and additions to the water and/or sewer system through payment of water/sewer rates or through their own contribution of capital. New connections to the system shall be required to pay an amount corresponding to that which has already been paid by existing customers towards the water and sewer facilities.

(B) *Definitions.* For purposes of this section, the following definitions shall apply, unless the context clearly requires a different meaning.

“*COMMISSION.*” The Shelbyville Municipal Water and Sewer Commission.

“*SDC: SYSTEM DEVELOPMENT CHARGE.*” The charge for a new water and/or sewer connection which corresponds to that amount which has already been paid by existing customers towards the invested capital funds of the system.

“*SEWER INSPECTION FEE.*” That fee established by ordinance to recover costs of inspection of new sewer service connections and to obtain a sewer use permit.

“*SEWER TAP FEE.*” That fee established by ordinance to assist in covering cost with future debt service requirements for future expansion of wastewater facilities.

“*WATER METER FEE.*” That fee established by ordinance to recover costs of setting new water services, inclusive of the metering device.

(C) *Method of establishing the system development charges.* The system buy-in method utilizes the calculations of existing customer's equity based on:

- (1) Present value of assets;
- (2) Outstanding indebtedness;
- (3) Depreciation;
- (4) Existing plant capacity and current usage; and
- (5) Present worth of the system development charge; to arrive at customer equity in terms of one thousand (1,000) gallons per month of water and/or sewer usage.

(D) *System Development Charges. (SDC)*

(1) The following charges are hereby adopted for new connections to the Water and Sewer System of the Commission:

(a) **Sewer System (effective May 1, 2010):**

(i) Residential Single Family

Inside city	\$918.00
Outside city	\$1,055.69

(ii) Apartments, Duplexes (per unit)

Inside city \$628.29

Outside city \$722.53

(iii) Industrial/Commercial/Other

Inside city \$223.75/1,000 gal./mo.

Outside city \$257.31/1,000 gal./mo.

(b) **Water System (effective May 1, 2010):**

(i) Residential Single Family

Inside city \$517.50

Outside city \$595.13

(ii) Apartments, Duplexes (per unit)

Inside city \$354.09

Outside city \$407.20

(iii) Industrial/Commercial/Other

Inside city \$100.88/1,000 gal./mo.

Outside city \$116.01/1,000 gal./mo.

(2) Water districts may be required to pay an SDC at the time of contract renegotiations and shall apply towards the increase in contract amount of water purchased.

(3) Any increase in water or sewer use by commercial, industrial, or other similar users, which exceeds the prior annual average by fifty percent (50%) or more, shall subject the user to the system development charges set out above.

(4) Revenue collected from the system development charge shall be deposited in a special account known as the "Water/Wastewater Facilities Expansion Account".

(5) In addition to the system development charges set out above, new connections shall be subject to fees for permit applications and inspections as adopted by the Commission pursuant to § 52.106.

(6) The following charges are hereby adopted for **New Sewer Connections to the Sewer System** of the Commission. The fee will be in addition to the system development charge (SDC).

(a) Residential Single Family

Inside city \$2,000

Outside city \$2,300

(b) Apartments/Duplexes (per unit)

Inside city \$1,365

Outside city \$1,570

(c) Industrial/Commercial/Other

Inside city \$487/1,000 gallon/month

Outside city \$560/1,000 gallon/month



200303-06, passed 3-6-03; Am. Ord. 2004-06-03, passed 6-3-04; Am. Ord. 2005-06-16, passed 6-16-05; Am. Ord. 2007-06-21(B), passed 6-21-07; Am. Ord. 2008-12-04, passed 12-4-08; Am. Ord. 2010-04-15(A), passed 4-15-10; Am. Ord. 2011-02-03, passed 2-3-11; Am. Ord. 2012-12-20, passed 12-20-12; Am. Ord. 2014-12-18, passed 12-18-14; Am. Ord. 2015-07-02, passed 7-2-15; Am. Ord. 2016-12-15, passed 12-15-16; Am. Ord. 2018-12-06, passed 12-06-18; Am. Ord. 2020-03-05, passed 3-5-20; Am. Ord. 2021-03-18, passed 3-18-21)

## **ARTICLE II. WATER**

### **Division 1. General Provisions**

#### **§ 31.400 AUTHORITY TO FLUORIDATE PUBLIC WATER SUPPLY**

Upon receiving the approval of the State Department of Public Health, and until further direction of the City Council, the Municipal Water and Sewer Commission is hereby authorized to provide the necessary funds and equipment and proceed with the addition of approximately one (1) and not more than 1.5 parts of fluoride to every million parts of water distributed in the water supply of the city.

(1986 Code)

#### **§ 31.401 WATER SHUT-OFF VALVE REQUIRED**

- (A) All customers of the Commission shall have installed a main shut-off valve on the inside of a foundation wall, which is accessible, as required by the State Plumbing Code and 815 KAR20.120. In addition, those customers which have other potable water lines, i.e., for other buildings that are not controlled by the shut-off valve described above, shall have shut-off valves in their water plumbing system to enable them to control their water plumbing system.
- (B) The water meter vault shall not be opened, entered, nor tampered with by anyone other than an employee of the Commission. In the event of an emergency, a Master Plumber licensed by the State of Kentucky may enter the meter vault; however, such an entry shall be for the purpose of an emergency only. If such an entry does occur, the licensed Master Plumber shall ensure that a main shut-off valve, as described in subsection (A) above, is installed for the customer in order to prevent future entries into the meter vault, and shall report the entry and installation of a shut-off valve to the Commission offices within forty-eight (48) hours after entry and installation.
- (C) The Commission disclaims any responsibility or liability to a customer due to leakage from the customer's water supply occurring on the customer's side of the meter vault.
- (D) In the event of unauthorized entrance or tampering with a meter vault by a customer, the Commission shall bill the customer for any costs and damages incurred due to unauthorized entrance to the meter or appurtenances. The Commission shall notify the customer by certified mail of violation upon discovery of the first occasion of tampering. After the first violation and notification, any person violating the provisions of this section shall be guilty of a Class A misdemeanor, punishable by fine of not more than five hundred dollars (\$500.00)
- (E) In the event a customer does not have a shut-off valve, or a leak occurs between the meter vault and the shut-off valve, the Commission may respond within its ability to turn off water, but a service charge of forty dollars (\$40.00) after normal working hours shall be billed to the customer. If there is not a shut-off valve, then a shut-off valve must be installed before Commission personnel may turn the water back on. In the event of extraordinary or unforeseen circumstances, Commission personnel may turn the water on, but a shut-off valve shall be installed within forty-eight (48) hours, or the water shall be turned back off, with the customer paying all costs.

(Ord. 96-04-4(B), passed 4-4-96)

#### **§ 31.402 WATER USER RATES**

(A) From and after June 1, 2021 billing (for water used during and after mid-April 2021), there shall be and is hereby established a revised schedule of rates and charges for the use and services of this portion

of said combined and consolidated Municipal Waterworks and Sewer System furnishing water and sewer services as follows:

From and after June 1, 2021, billing (for water used during and after mid-April 2021), there shall be and is hereby established the following water rate schedule (first 1,000 gallons below as shown is for a 5/8-inch meter):

(1) For customers who are both within the city limits, and within the city water service area:

First	1,000 gallons used per month	\$10.94 per 1,000 gal. (minimum bill)
Next	9,000 gallons used per month	\$2.93 per 1,000 gal.
Next	15,000 gallons used per month	\$2.81 per 1,000 gal.
All over	25,000 gallons used per month	\$2.63 per 1,000 gal.

(2) For customers who are within that area extending south of I-64, then east and west being served by the water mains constructed in 1978 and additions thereto (defined as the Finchville Rate Area), and within the city water service area:

First	1,000 gallons used per month	\$15.18 per 1,000 gal. (minimum bill)
Next	9,000 gallons used per month	\$4.19 per 1,000 gal.
Next	15,000 gallons used per month	\$3.53 per 1,000 gal.
All over	25,000 gallons used per month	\$3.15 per 1,000 gal.

(3) For customers who are outside the city limits but not in the Finchville Rate Area, and within the city water service area:

First	1,000 gallons used per month	\$12.56 per 1,000 gal. (minimum bill)
Next	9,000 gallons used per month	\$3.40 per 1,000 gal.
Next	15,000 gallons used per month	\$3.21 per 1,000 gal.
All over	25,000 gallons used per month	\$3.01 per 1,000 gal.

(B) Minimum monthly charges for meters larger than 5/8-inch, and 1,000 gallons or less used each month:

<b>Meter Size</b>	<b>Inside City</b>	<b>Outside City</b>	<b>Finchville Area</b>
1-inch	\$14.28	\$16.42	\$20.15
1½-inch	\$17.84	\$20.54	\$25.39
2-inch	\$27.65	\$31.79	\$39.84
3-inch	\$99.99	\$114.97	\$146.18
4-inch	\$126.77	\$145.89	\$185.54
6-inch	\$185.41	\$217.66	N.A.

(C) *Commercial haulers.*

Inside city \$3.32 per 1,000 gal.

Outside city \$4.75 per 1,000 gal.

(D) *Water districts.*

West Shelby Water District \$2.38 per 1,000 gal.

(There shall be a \$1 surcharge for each 1,000 gallons of water purchased by West Shelby that is above 12 million gallons during any calendar billing month.)

North Shelby Water Company \$2.29 per 1,000 gals.

U.S. 60 Water District of

Shelby and Franklin Counties,

Kentucky \$2.29 per 1,000 gals.

Quantities over the respective contract limits shall be charged the normal rate plus: \$1 per 1,000 gal.

(E) *Fire protection.*

(1) Service for public fire hydrants outside the city limits of Shelbyville shall be provided at the rate of \$1.25 per month for each customer living within 1,000 feet of a hydrant.

(2) Service for private fire hydrants outside the city limits of Shelbyville shall be charged at the rate of \$8.50 per month per hydrant.

(3) Service for sprinkler systems shall be charged at the rate of \$0.003 per square foot per month of buildings sprinkled.

(F) **Automatic annual increases to water rates and charges.** This section establishes an annual cost of living increase to be calculated effective July 1 of each year (beginning with the July 1, 2022 billing), on which date the then current rates may automatically be increased by up to 2.5% for water if deemed necessary by the Commission. Should the Commission determine a rate increase is necessary, it shall provide written notice of same to the Shelbyville City Council on or before April 30 preceding said date for the increase to take effect, and the Shelbyville City Council may, by vote taken on or before May 15 preceding said date for the increase to take effect, vote to waive all or any portion of the increase for that year.

(Ord. 94-07-21, passed - -; Am. Ord. 96-03-07(B), passed 3-21-96; Am. Ord. 98-04-16(A), passed 4-16-98; Am. Ord. 99-07-15(B), passed 7-15-99; Am. Ord. 2001-03-01, passed 3-11-01; Am. Ord. 2002-12-05(A), passed 12-5-02; Am. Ord. 2004-06-03, passed 6-3-04; Am. Ord. 2005-06-16, passed 6-16-05; Am. Ord. 2007-06-21(B), passed 6-21-07; Am. Ord. 2008-12-04, passed 12-4-08; Am. Ord. 2011-02-03, passed 2-3-11; Am. Ord. 2011-11-03, passed 11-3-11; Am. Ord. 2012-12-20, passed 12-20-12; Am. Ord. 2014-12-18, passed 12-18-14; Am. Ord. 2015-07-02, passed 7-2-15; Am. Ord. 2016-12-15, passed 12-15-16; Am. Ord. 2017-11-02(B), passed 11-2-17; Am. Ord. 2018-12-06, passed 12-06-18; Am. Ord. 2020-03-05, passed 3-5-20; Am. Ord. 2021-03-18, passed 3-18-21)

**§ 31.403 SURCHARGE RATES FOR CONTRACT WATER USERS**

(A) Contract water purchasers shall pay a surcharge of \$1.00 per 1,000 gallons of water withdrawn in excess of the maximum provided by contract. This surcharge is in addition to the normal contract price of \$1.93 per 1,000 gallons for West Shelby Water District, and \$1.765 per 1,000 gallons of water in any month for West Shelby Water District, and \$2.765 per 1,000 gallons for North Shelby Water Company, where the water withdrawal exceeds the maximum provided by contract.

(B) During any monthly period of potential water shortage declared by the Commission, any water purchaser whose contract maximum is being exceeded shall, upon notification by the Commission, immediately institute conservation measures to reduce withdrawal of water from the Commission. If this water purchaser fails to reduce withdrawal of water to the average daily amount of the contract maximum, the Commission shall call an emergency meeting with the purchaser of water to effect compliance with the contract maximum by whatever means necessary and reasonable.

(C) The surcharge under this section does not in any way condone or accept the breach of any contract with the Commission or acknowledge the right of any water purchaser to exceed its contract maximum for water withdrawal from the Commission.

(Ord. 90-07-06B, passed 7-6-90; Am. Ord. 2011-11-03, passed 11-3-11)

## **Division 2. Water Shortage Regulations**

### **§ 31.500 PURPOSE**

The purpose of this subchapter is to provide for the declaration of official phases of water supply shortage situations and the implementation of voluntary and mandatory water conservation measures throughout the water supply territory of the Shelbyville Municipal Water and Sewer Commission, in the event a shortage is declared. Nothing in this subchapter shall be construed to interfere with common law riparian or statutory water rights.

(Ord. 2001-05-03(A), passed 5-3-01)

### **§ 31.501 DEFINITIONS**

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

"COMMISSION." The Shelbyville Municipal Water and Sewer Commission.

"CUSTOMER." Any person using water for any purpose from the commission's water distribution system and for which a regular charge is made.

"OTHER SOURCES OF WATER." Water that has not been introduced by the Commission into its water distribution system.

"RAW WATER SUPPLIED." All water potentially available to the Commission's Water Treatment Plan, and customers of the Commission.

"TREATED WATER." Water that has been introduced by the Commission into its water distribution system, including water offered for sale. Uses of treated water are classified as follows:

- (A) Essential water uses (Class 1). The following uses of water, listed by site or user type, are essential.
- (1) Domestic. In-house water necessary to sustain human life and the lives of domestic pets, and to maintain minimum standards of hygiene and sanitation.
  - (2) Health care facilities. Patient care and rehabilitation.
  - (3) Water hauling. Sale for domestic use where not reasonably available elsewhere.
  - (4) Public uses. Fire fighting. Health and public protection purposes, as specifically approved by the Commission through recommendations of health officials and the municipal governing body.
- (B) Socially or economically important uses of water (Class 2). The following uses of water, listed by site or user type are socially or economically important.
- (1) Domestic. Personal, in-house water usage including kitchen, bathroom and laundry.
  - (2) Water hauling. Non-domestic, when other sources are not reasonably available, where specifically approved by the Commission.

- (3) Commercial and civic use. Commercial car and truck washes; laundromats; restaurants, clubs and eating places; schools, churches, motels/hotels and similar commercial establishments.
  - (4) Outdoor non-commercial watering. Minimal watering of vegetable gardens during water conserving time periods; Minimal watering of trees where necessary for their survival, using water conserving methods (i.e., soaker hoses).
  - (5) Outdoor commercial or public watering (using conservation methods and when other sources of water are not available or feasible to use). Agricultural irrigation for the production of food or the maintenance of livestock; watering by arboretums and public gardens of national, state, regional or community significance where necessary to preserve specimens; watering by commercial nurseries where necessary to maintain stock; watering where necessary to establish or maintain re-vegetation or landscape plantings required pursuant to law or regulation.
  - (6) Recreational. Operation of municipal/county swimming pools; air conditioning (closed loop systems) refilling for startup at the beginning of the cooling season, makeup of water during the cooling season, refilling, specifically approved by the commission through recommendations of health officials and the municipal governing body, where the system has been drained for health protection or repair services.
- (C) Non-essential (Class 3). Any waste of water, as defined herein, is non-essential. The following uses of water, listed by site or user type, are also non-essential.

- (1) Public Uses. Use of fire hydrants (excluding Class 1 and 2) uses, including use of sprinkler caps, testing fire apparatus and fire department drills using water.
- (2) Commercial and civil uses. Serving water in restaurants, clubs, or eating places, except by customer request; failure to repair a controllable leak; increasing water levels in scenic and recreational ponds and lakes.
- (3) Ornamental purposes. Fountains, reflecting pools, artificial waterfalls.
- (4) Outdoor non-commercial watering. Use of water for dust control or compaction; watering of annual or plants other than vegetable garden; watering of lawns, parks, golf courses, playing fields and other recreational areas; washing sidewalks, walkways, driveways, parking lots, tennis courts or other hard surface areas; washing down buildings or structures for purposes other than immediate fire protection; flushing gutters or permitting water to run or accumulate in any gutter or street.

Outdoor commercial or public watering. Expanding nursery facilities, placing new irrigated agricultural land in production, or planting of landscaping except when required by a site design review process; use of water for dust control or compaction; watering of lawns, parks, golf courses, playing fields and other recreational areas; washing sidewalks, walkways, driveways, parking lots, tennis courts or other hard surface areas; washing down buildings or structures for purposes other than immediate fire protection; flushing gutters or permitting water to run or accumulate in any gutter or street.

- (5) Any recreational uses other than those specified in Class 2.
- (6) Non-commercial washing of motor and other vehicles.
- (7) Air conditioning (see also Class 2 purposes). Refilling cooling towers after draining.

"WASTE OF WATER." Includes, but is not limited to (1) permitting water to escape down a gutter, ditch, or other surface drain, or (2) failure to repair a controllable leak of water due to defective plumbing.

"WATER." The same meaning as treated water, except as used in §§ 31.002 and 31.003.

"WATER SHORTAGE RESPONSE PHASES."

- (A) "Advisory." Conditions exist which indicate the potential for serious water supply shortage.

(B) "Alert." Raw water supplies are consistently below seasonal averages, and if they continue to decline, may not be adequate to meet normal needs.

(C) "Emergency." Water supplies are below the level necessary to meet normal needs and that serious shortage exist in the area.

(Ord. 2001-05-03(A), passed 5-3-01)

**§ 31.502 DECLARATION OF A WATER SHORTAGE ADVISORY.**

(A) Whenever the Commission finds that a potential shortage of raw water supplies is indicated, it shall be empowered to declare by resolution that a water shortage advisory exists, and that the Commission Manager shall, on a daily basis, monitor the supply and demands upon that supply. In addition, the Manager (or by direction of the Manager his/her agent) is authorized to call upon all water customers to employ voluntary water conservation measures to limit non-essential (Class 3) water use and eliminate the waste of water.

(B) This resolution shall be published in the newspaper of largest circulation and may be publicized through the general news media or any other appropriate method for making such resolutions public.

(Ord. 2001-05-03(A), passed 5-3-01)

**§ 31.503 DECLARATION OF A WATER SHORTAGE ALERT**

(A) Whenever the Commission finds the raw water supplies to be consistently below seasonal averages, and if they continue to decline and may not be adequate to meet normal needs, it shall be empowered to declare by resolution that a water shortage alert exists.

(B) The Commission shall continue to encourage voluntary water conservation measures defined under the advisory declaration, and further shall impose a ban on all non-essential (Class 3) water uses for the duration of the shortage until it is declared to have ended by resolution of the Commission.

(Ord. 2001-05-03(A), passed 5-3-01)

**§ 31.504 DECLARATION OF A WATER SHORTAGE EMERGENCY**

(A) Whenever the Commission finds that raw water supplies are below the level necessary to meet normal needs and that serious shortages exist, it shall be empowered to declare by resolution that a water shortage emergency exists.

(B) Essential Uses (Class 1) shall be identified, in specific, as targets for voluntary conservation initiatives. Also, all socially or economically important uses (Class 2) shall be restricted and non-essential uses (class 3) shall be banned (this requirement should already be in effect from the "Alert.")

(C) These restrictions shall be considered ongoing until the emergency is ended by resolution of the Commission. Declaration of these resolutions shall follow the guidelines in § 31.502.

(Ord. 2001-05-03(A), passed 5-3-01)

**§ 31.505 WATER SHORTAGE RATES**

Upon the declaration of a water shortage as provided in §§ 31.502. - 31.504, the Commission, through the approval of the City Council, shall have the power to adopt water shortage rates, by ordinance, designed to conserve water supplies. Such rates may provide for, but not be limited to:

(A) Higher charges per unit for increasing usage (increasing block rates);

(B) Uniform charges for water usage per unit of use (uniform unit rate);

(C) Extra charges for use in excess of a specified level (excess demand surcharge).

(Ord. 2001-05-03(A), passed 5-3-01)

### **§ 31.506 REGULATIONS**

During the effective period of any water supply shortage as provided for in §§ 31.502. - 31.504, the manager is empowered to promulgate such regulations as may be necessary to carry out the provisions of this subchapter, any water supply resolution, or water shortage rate ordinance. Such regulations shall be subject to the approval of the Commission at its next regular or emergency meeting.

(Ord. 2001-15-03(A), passed 5-3-01)

### **Division 3. Water Rationing Guidelines**

#### **§ 31.600 PURPOSE**

The purpose of this subchapter is to provide for the declaration of water rationing for equitable distribution of critically short water supplies. Nothing in this subchapter shall be construed to interfere with common law riparian or statutory water rights.

(Ord. 2001-05-03(B), passed 5-3-01)

#### **§ 31.601 DEFINITIONS**

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

"ALLOTMENT." The maximum quantity of water allowed for each customer over any applicable period as established in the provisions of this subchapter.

"COMMISSION." The Shelbyville Municipal Water and Sewer Commission.

"EXCESS USE." The usage of water by a water customer in excess of the water allotment provided for that customer, over any applicable period.

"NON-RESIDENTIAL CUSTOMER." Commercial, industrial, public, and all other such users, with the exception of hospitals, and health care facilities.

"RATIONING." Procedures established to provide for the equitable distribution of critically-limited water supplies, in order to balance demand and limited available supplies, and to assure that sufficient water is available to preserve public health and safety.

"RESIDENTIAL CUSTOMERS." Any customer who receives water service for a single or multi-family dwelling unit. The term residential customer does not include educational or other institutions, hotels, motels, or similar commercial establishments.

"SERVICE INTERRUPTIONS." The temporary suspension of water supply, or reduction of pressure below that required for adequate supply, to any customer, portion of a water supply, or entire system.

"WATER SUPPLIES." Water available to the commission for treatment by virtue of its water rights or withdrawal permit or any treated water introduced by the Commission into its water distribution system, including water offered for sale.

(Ord. 2001-05-03(B), passed 5-3-01)

#### **§ 31.602 DECLARATION OF RATIONING**

Whenever the Shelbyville City Council finds a need to provide for the equitable distribution of critically limited water supplies, in order to balance demand and limited available supplies, and to assure that sufficient water is available to preserve public health and safety, it shall, upon a recommendation by the Commission, be empowered to declare by resolution the adoption of mandatory rationing.

(Ord. 2001-05-03(B), passed 5-3-01)

**§ 31.603 OBJECTIVES OF RATIONING**

- (A) It is imperative that water customers achieve an immediate further reduction in water use in order to extend existing water supplies and, at the same time, assure that sufficient water is available to preserve the public health and sanitation and to provide fire protection service.
- (B) Should shortages continue, further reductions in usage may be required. The additional usage reduction in the rationed area must be a valid and attainable goal reflective of the conditions which currently exist.
- (C) The plan provides for equitable reductions in water usage and for equal sacrifice on the part of each water consumer. The success of this ordinance depends on the cooperation of all water customers in the emergency area.

(Ord. 2001-05-03(B), passed 5-3-01)

**§ 31.604 WATER USE RATIONING FOR RESIDENTIAL CUSTOMERS**

(A) Metered residential water customers and allotments:

- (1) Residential customers shall limit their usage to no more than three thousand six hundred (3,600) gallons per month. Where only one person constitutes a residence, the limitation shall be one thousand six hundred fifty (1,650) gallons, which is based on fifty-five (55) gallons/day for that person. In the event of a dispute, the number of permanent residents in each dwelling unit (household) will determine the amount of water that a household will be allowed.
- (2) Residential water customers are required to not interfere with Commission personnel in allowing reasonable access to read meters as necessary for this rationing declaration. In the event a water customer does not allow entry to read the meter after reasonable efforts to arrange for such access, the dwelling unit (household) allotment will be reduced to a total of fifty-five (55) gallons per day; forty (40) gallons for households with only one permanent resident.
- (3) Where the residential water allotment provided under this section would create an extraordinary hardship, as in the case of special health-related requirements, the water customer may apply to the Commission for an exemption or variance from these requirements. If it is found that the allotment provided in this section would impose an extraordinary hardship, a revised allotment for the particular customer may be established. Any person aggrieved by a decision relating to such an exemption or variance rendered by the Commission may file a complaint with the City Council.

(Ord. 2001-05-03(B), passed 5-3-01)

**§ 31.605 WATER USE RATIONING FOR NON-RESIDENTIAL WATER CUSTOMERS**

- (A) Non-residential water customers shall further reduce their water usage to fifty percent (50%) of normal use levels as compared to previous history for the most recent record of the June through July months.
- (B) It is the primary responsibility of each non-residential water customer to meet its mandated water use reduction goal in whatever manner possible.
- (C) The Commission will establish a water allotment for each non-residential water customer, based on a required further reduction of water usage from the rate of water used by the customer in effect on the last recorded usage level.
- (D) No non-residential water customer shall interfere with the Commission's access to water meters, especially for the purpose of compliance with this subchapter.

(E) If the mandated further reduction in water usage cannot be obtained without imposing an extraordinary hardship which threatens health and safety, the non-residential customer may apply to the Commission for a variance. For these purposes extraordinary hardship means a permanent damage to property or economic loss which is substantially more severe than the sacrifices borne by other water uses subject to this water rationing subchapter. If the further reduction would cause an extraordinary hardship or threaten health or safety, a variance may be granted and a revised water use reduction requirement for the particular customer be established. Any person aggrieved by a decision relating to such an exemption or variance rendered by the Commission may file a complaint with the City Council.

(Ord. 2001-05-03(B), passed 5-3-01)

**§ 31.606 WATER USE RATIONING FOR HOSPITALS AND HEALTH CARE FACILITIES**

(A) Hospitals and health care facilities shall comply with all restrictions imposed on residential and non-residential water customers as may be applicable to each individual institution, to the extent compliance will not endanger the health of the patients or residents of the institution.

(B) Each hospital or health care facility shall survey its water usage patterns and requirements and implement such additional conservation measures as may be possible without endangering the health of its patients or residents to achieve a further reduction in the institution's water usage.

(Ord. 2001-05-03(B), passed 5-3-01)

**§ 31.607 ENFORCEMENT OF WATER RATIONING.**

(A) The Commission will have primary responsibility for monitoring of compliance with the water rationing subchapter.

(B) The following provisions shall govern the implementation of service interruptions:

(1) In order to effectuate compliance with this subchapter, the Commission is hereby authorized and required to plan and implement service interruptions to all or a part of its water supply system, as may be deemed appropriate, when and/or all of the following conditions are determined to exist:

- (a) The mandated reduction in system-wide usage has not been achieved, and/or
- (b) The mandated reduction in system-wide water usage has been achieved, but has failed to have a significant impact in extending limited water supplies, and/or
- (c) Service interruptions are necessary in order to further extend limited and/or dwindling water supplies.

(2) In the event it is determined that service interruptions are necessary, the Commission shall notify its customers that a planned service interruption is to be imposed. This shall be done through the public media (newspaper, radio and television) and at least one day prior to the service interruption. Such notice shall:

- (a) State the day or days when the planned service interruptions shall occur;
- (b) State the time(s) when such planned service interruptions will commence, and the time(s) such interruptions will cease;
- (c) State whether the planned service interruptions are to be imposed on the entire system, or part thereof, and, if only part(s) of the system will experience planned service interruptions, identify geographic boundaries within which such interruptions will occur; and
- (d) Advise all customers within the areas affected by planned service interruptions how to treat any water received from the system, for human consumption, during the period(s) of such interruptions and for such additional time as may be necessary until full pressure is restored to the system.

(3) If a planned service interruption is imposed as authorized and required by this subchapter, it must provide for the continued delivery of water to health care facilities within the area(s) affected by such interruptions, by means of any adequate, alternative delivery measures that may be necessary.

(4) If a planned service interruption is implemented as authorized and required by this subchapter, it must make provision, by any means possible, for the continued delivery of such water as may be necessary for the proper operation of sewage collection, treatment, and disposal systems and facilities.

(C) Any residential or non-residential water customer who exceeds the allotments established pursuant to this water rationing will be subject to the following excess-use charges:

(1) Excess-use charges will be collected based on the amount by which a customer's use exceeds the water allotments established pursuant to the local water rationing declaration, computed in accordance with the following schedule:

EXCESS USAGE PER MONTH	CHARGE FOR EXCESS
First 2,000 gallons or portion thereof	\$8.00 per 1,000 gallons or portion thereof
Each 1,000 gallons, or portion thereof, thereafter	\$15.00 per 1,000

(D) In addition to the excess-use charge, non-compliance with the water rationing provisions of this subchapter will result in the following:

(1) For the first excess use, a warning of possible discontinuation shall be issued to the customer.

(2) For the second or subsequent excess use, service to the customer may be interrupted or shut off for a period not to exceed forty-eight (48) hours, or, if the customer provides access, a flow restrictor may be installed in the customer's service line for the duration of the emergency. The cost incurred to interrupt or shut off and reinstate service, or to install and remove a flow restrictor, shall be assessed to the water customer.

(E) Meter reading schedules are authorized to be altered to assure adequate monitoring of compliance with this subchapter.

(F) Any customer or other person aggrieved by a decision or action imposing an excess-use charge or other remedy for non-compliance with the requirements of this subchapter may proceed in accordance with the following provisions:

(1) The Commission shall adopt procedures which provide an opportunity for the customer or aggrieved party to rebut the finding of a violation, or provide evidence of circumstances beyond the customer's control which resulted in the violation. A record of evidence regarding disputed violations shall be kept, and a written notice of the Commission's final decision and action in such cases shall be provided to the customer or aggrieved party.

(2) Any person aggrieved by the final decision or action of the Commission may file a complaint with the City Council.

(Ord. 2001-05-03(B), passed 5-3-01)

### **§ 31.608 WATER SHORTAGE RATES**

Upon the declaration of water rationing as provided in the City Council, with the recommendation of the Commission, shall have the power to adopt water shortage rates, by ordinance, designed to conserve water supplies. Such rates may provide for, by not be limited to:

(A) Higher charges per unit for increasing usage (increasing block rates);

(B) Uniform charges for water usage per unit of use (uniform rate);

(C) Extra charges for use in excess of a specified level (excess demand surcharge)

(Ord. 2001-05-03(B), passed 5-3-01)

### § 31.609 REGULATIONS

During the effective period of water rationing as provided for in § 31.602, the Commission Manager is empowered to promulgate such regulations as may be necessary to carry out the provisions of this subchapter, any water supply shortage resolution, or water shortage rate ordinance. Such regulations shall be subject to the approval of the Commission at its next regular or emergency meeting. (Ord. 2001-05-03(B), passed 5-3-01)

### § 31.999 PENALTY

- (A) Any person who is found to have violated any provision of this chapter or the orders and permits issued hereunder, shall be subject to an administrative penalty and fined in an amount not to exceed five thousand dollars (\$5,000.00) **per violation for each per** day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the person's next scheduled sewer charge and the Manager shall have such other collection remedies as he must collect other service charges.
- (B) Any person violating any of the provisions of this chapter shall be subject to termination of its authority to discharge sewage into the Commission system upon a determination pursuant to the terms of this chapter that the violation currently exists and is of a continuing nature.
- (C) Any person violating any of the provisions of this chapter shall become liable to the Commission for any expense, loss, or damage occasioned by the Commission because of the violation.
- (D) (1) Any person who has violated or continues to violate this chapter or any order or permit issued hereunder, shall be liable to the Manager for a civil penalty of not more than ten thousand dollars (\$10,000.00) plus actual damages incurred by the POTW per violation, per day, for as long as the violation(s) continues. In addition to the above-described penalty and damages, the Manager may recover reasonable attorney's fees, court costs, and other expenses of his enforcement activities, including special sampling and monitoring expenses.
- (2) The Manager shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the person's violation, corrective actions by the person, the compliance history of the user person, and any other factor as justice requires.
- (E) Any person who willfully or negligently violates any provision of this chapter, or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (~~\$1,000.00~~) **(\$5,000.00)** per violation, per day, or imprisonment for not more than one (1) year, or both.
- (F) Any person violating the provisions of § 31.004 shall, upon conviction, be punishable by a fine of not more than one thousand dollars (~~\$1,000.00~~) **(\$5,000.00)** or by imprisonment for not more than twelve (12) months, or by both.
- (G) Any person who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than one thousand dollars (~~\$1,000.00~~) **(\$5,000.00)** per violation, per day, or imprisonment for not more than one (1) year, or both.

(H) Any person violating the provisions of § 31.063(C), shall, upon conviction, be subject to a fine of not more than ten thousand dollars (\$10,000.00) or imprisonment in the county jail for not more than twelve (12) months, or by both.

(Ord. - -, passed 6-7-84; Am. Ord. 89-10-002, passed 10-19-89; Am. Ord. 91-07-18, passed 7-18-91)

(I) Any person who violates the provisions of Article II, Division 2, who fails to carry out the duties and responsibilities imposed by this subchapter, or who impedes or interferes with any action undertaken or ordered pursuant to this subchapter shall be subject to the following penalties.

(1) If the Mayor or other City Official, or a Commissioner, Commission Manager/Asst. Manager, Commission Department Head, or other person(s) charged with the implementation and enforcement of this subchapter or a water supply shortage resolution learns of any violation of any water use restriction imposed pursuant to this subchapter, a written notice of the violation shall be affixed to the property where the violation occurred and mailed to the customer of record and to any other person known to the Commission who is responsible for the violation or its correction. Said notice shall describe the violation and order that it be corrected, cured, or abated immediately or within such specified time as the Commission Manger/Asst. Manager determines it is reasonable under the circumstance, but in no event longer than ninety-six (96) hours. If the order is not complied with, the Commission may terminate the water service to the customer subject to the following procedures:

(a) The Commission shall give the customer notice by mail or hand delivery that, due to the violation, water services will be discontinued within a specified period of time and that the customer has the opportunity to appeal the termination (within four (4) days) by requesting a hearing before the Commission, or a Commission member official designated as a hearing officer by the Commission.

(b) If such a hearing is requested by the customer charged with the violation, he or she shall be given full opportunity to be heard before termination is ordered; and

(c) The Commission shall make findings of fact and order whether service should continue to be terminated.

(2) A fee of fifty dollars (\$50.00) shall be paid for the reconnection of any water service terminated pursuant to subsection (1). In the event of subsequent violations, the reconnection fee shall be two hundred dollars (\$200.00) for the second violation, and three hundred dollars (\$300.00) for each additional violation.

(3) Any customer may also be charged with violation of this subchapter and prosecuted in District Court. Any person charged and found guilty in District Court of violating the provisions of this subchapter shall be guilty of a Class B misdemeanor. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be mandatory fees of one hundred dollars (\$100.00) which may not be adjusted by the District Court. In addition, such a customer may be required by the court to serve a definite term of confinement in the county jail which shall be fixed by the court, and which shall not exceed thirty (30) days. The penalty for a second violation shall be a mandatory fine of three hundred dollars (\$300.00) which may not be adjusted by the District Court. In addition, such a customer shall serve a definite term of confinement in the county jail which shall be fixed by the court, and which shall not exceed thirty (30) days. Penalties for additional violations shall be the same as the second violation.

(Ord. 2001-05-03(A), passed 5-3-01)

(J) Any person who violates the provisions of Article II, Division 3, who fails to carry out the duties and responsibilities imposed by this subchapter, or who impedes or interferes with any action undertaken or ordered pursuant to this subchapter shall be subject to the following penalties.

(1) If a Commission member, manager, assistant manager, superintendent or other employee of the Commission charged with implementation and enforcement or a water supply shortage

resolution learns of any violation of any water use restriction imposed pursuant to this subchapter, a written notice of the violation shall be affixed to the property where the violation occurred and mailed to the customer of record and to any other person known to the Commission who is responsible for the violation or its correction. Said notice shall describe the violation and order that it be corrected, cured, or abated immediately or within such specified time as the Commission determines is reasonable under the circumstances. If the order is not complied with, the Commission may terminate the water service to the customer subject to the following procedures:

- (a) The Commission shall give the customer notice by mail that, due to the violation, water services shall be discontinued within a specified time and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before a quorum of the Commission or an official; designated as a hearing officer by the Commission.
  - (b) If such a hearing is requested by the customer charged with the violation, he or she shall be given full opportunity to be heard before termination is ordered; and
  - (c) The Commission or hearing officer shall make findings of facts and order whether service should be continued or be terminated.
- (2) A fee of one hundred dollars (\$100.00) shall be paid for the reconnection of any water service terminated pursuant to subsection (1). In the event of subsequent violations, the reconnection fee shall be two hundred dollars (\$200.00) for the second violation and three hundred dollars (\$300.00) for each additional violation.
- (3) Any customer may also be charged with violation of this subchapter and prosecuted in District Court. Any person charged and found guilty in District Court of violating the provisions of this subchapter shall be guilty of a Class B misdemeanor. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be mandatory fees of one hundred dollars (\$100.00) which may not be adjusted by the District Court. In addition, such a customer may be required by the Court to serve a definite term of confinement in the county jail which shall be fixed by the Court, and which shall not exceed thirty (30) days. The penalty for a second violation shall be a mandatory fine of two hundred dollars (\$200.00), which may not be adjusted by the District Court. In addition, such a customer shall serve a definite term of confinement in the county jail, which shall be fixed by the Court, and which shall not exceed thirty (30) days. Penalties for additional violations shall be the same as the second violation.

(Ord. 2001-05-03(B), passed 5-3-01; Am. Ord. 2019-09-019, passed 9-19-19)

Cross Reference:

Extension of water and sewer service, see § 80.003