

CHAPTER 51: UTILITIES

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§ 51.01 GENERALLY.

The following terms, as used in this chapter, shall have the meanings stated.

(A) *Underground construction required.* All utility lines hereafter installed, constructed, or otherwise placed within the City for electric, telephone, TV cable, or other similar services to serve residential, commercial, and industrial customers in newly platted areas, and which utilize metallic conductors to carry electric current, whether owned, installed, or constructed by the supplier, consumer, or any person shall be installed and placed underground in an approved, safe manner, subject only to the exceptions hereinafter stated.

(B) *Utility companies.* All companies installing and operating lines such as those described herein shall be referred to as utility companies for the purpose of this section.

(C) *Exceptions to application.* The following exceptions to the strict applicability of this section shall be allowed upon the conditions stated.

(1) Aboveground placement, construction, modification, or replacement of meters, gauges, transformers, street lighting, and service connection pedestals shall be allowed.

(2) Aboveground placement, construction, modification, or replacement of these lines commonly referred to as high voltage transmission lines upon which the conductor's normal operating voltage equals or exceeds 23,000 volts-phase-to-phase shall be allowed, provided, however, that 60 days prior to commencement of construction of such a project, the Director of Public Works shall be furnished notice of the proposed construction and, upon request, the utility company shall furnish any relevant information regarding the project to the City Engineer.

(3) Aboveground placement, construction, modification, or replacement of lines shall be allowed in residential, commercial, and industrial areas where the Council, following consideration and recommendation by the Planning Commission finds that:

(a) Underground placement is impractical or not technically feasible due to topographical, subsoil or other existing conditions which adversely affect underground utility placement; and

(b) Aboveground placement of temporary service line shall only be allowed:

1. During the new construction of any project for a period not to exceed 24 months;
2. During an emergency to safeguard lives or property within the City; and
3. For a period of not more than 7 months when soil conditions make excavation impractical.

(D) *Consumer and customer.* The terms consumer and customer shall refer to any user of a utility except when those terms are used with regards to a municipal utility, then those terms shall refer to the owner of the property being served by the municipal utility. (Am. Ord. 540, passed 10-17-2005)

(E) *Developer responsibility.* All owners, platters, or developers are responsible for complying with the requirements of this section, and prior to the final approval of any plat or development plan, shall submit to the Planning Commission written instruments from the appropriate utility companies showing that all necessary arrangements with the companies for installation of the utilities have been made.

(F) *Placement.*

(1) All utility lines shall be placed with appropriate easements or dedicated public ways so as to cause minimum conflict with other underground services. Whenever feasible, all utilities shall be placed within the same trench.

(2) All utility companies shall submit annually to the Director of Public Works current maps revealing locations of underground installation, whether the installations were installed prior to the adoption of this section or hereafter. (Prior Code, § 12.01) Penalty, see § 10.99

§ 51.02 CONTRACTUAL CONTENTS.

Provisions of this chapter relating to municipal utilities shall constitute portions of the contract between the City and all consumers of municipal utility services, and every such consumer shall be deemed to assent to the same. All contracts between franchisees and consumers of utility services other than municipal shall be in strict accord with the provisions of this chapter. (Prior Code, § 12.03)

§ 51.03 RULES AND REGULATIONS RELATING TO MUNICIPAL UTILITIES.

(A) *Billing, payment, and penalty.*

(1) All municipal utilities shall be billed in monthly or quarterly installments, as the case may be, but a utilities statement shall be sent to each consumer on or before the first day of the month following reading of any meter read during the month. All utility charges shall be delinquent if they are

unpaid at the close of business on the twentieth day of the month following the billing, provided, that if the twentieth day of the month shall fall on a Saturday, Sunday, or legal holiday, the time shall be extended to the close of business on the next succeeding day on which business is normally transacted.

(2) Except as specifically authorized in this Section, a penalty of 10% thereof shall be added to, and become part of, all delinquent utility bills. Upon a utility bill becoming delinquent, the City shall at month-end, by first-class mail to the recorded billing address, mail a delinquent notice and disconnect warning, stating the amount of the unpaid bill, including penalty amount. This notice must state that if payment is not received within 10 days of billing, an additional penalty of \$10 will be added to the bill and service will be disconnected. (If the above days fall on a Saturday, Sunday, or legal holiday, the above procedure shall be implemented the next regular scheduled business day.)

(3) If any such bill is not paid in full on or before the thirtieth day of the month following the date upon which it became delinquent, municipal utilities may, at the option of the City, be suspended to the consumer whose bill is so delinquent. Disconnection of service due to an unpaid utility bill shall be as soon as practicable following the eleventh business day after notification. Disconnection shall be made during normal business hours.

(4) Prior to disconnection, the utility shall post a Notice of Water Shutoff on the property. The Notice of Water Shutoff shall be posted conspicuously indicating the following:

- (a) Water service termination date;
- (b) Total amount due; and
- (c) Contact information for making payment.

(5) No on-site collection attempts shall be conducted.

(6) If the delinquent utility bill remains delinquent beyond the water service termination date identified in the posted Notice of Water Shutoff, the utility may disconnect the service.

(7) The Utility Department must reconnect service at the earliest practical time during regular business hours of the Utility Department if the customer or designated representative:

- (a) Pays the outstanding balance owed; or
- (b) Enters into a written payment agreement with the City providing for partial payment arrangements acceptable to the Finance Department. Failure of the customer to adhere to the payment agreement as established by the utility shall result in immediate disconnection of service by the utility. Payment must be made in full 60 days after original billing. Service termination shall occur the next regular business day after dated water shut-off or agreement to pay letter expires and payment has not been received. (Am. Ord. 491, passed 4-21-2003)

(8) In the case of single-metered residential buildings, the utility shall follow the requirements of Minn. Stat. § 504B.215, as amended, as the same applies to notice of disconnection, disconnection, and reconnection of service.

(B) *Application, connection, and sale of service.* Application for municipal utility services shall be made upon forms supplied by the City, and strictly in accordance therewith. No connection shall be made until consent has been received from the City to make the same. All municipal utilities shall be sold and delivered to consumers under the then applicable rate applied to the amount of the utilities

taken as metered or ascertained in connection with the rates.

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

(1) The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any requirement of the City Code relative thereto, or any connection therewith;

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

(3) There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges therefore;

(4) Utility connections or disconnections have been made by anyone other than a Utility Department employee or a contractor approved by the Utility Department; and/or

(5) The City is refused entry to property, dwelling or other building to install, read, inspect, repair, maintain or replace a utility meter or to inspect or repair a utility system.

(D) *Ownership of municipal utilities.* Ownership of all municipal utilities, plants, lines, mains, extensions, and appurtenances thereto, shall be and remain in the City and no person shall own any part or portion thereof. Provided, however, that private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership.

(E) *Right of entry.* With the consent of the property owner or in the event of an emergency, the City has the right to enter in and upon private property including buildings and dwelling houses, in or upon which is installed a municipal utility, or connection therewith, for the purposes of installing, reading, inspecting, repairing, maintaining, or replacing utility meters or any part thereof; to inspect or repair utility systems; and for the purposes of connecting and disconnecting service.

(F) *Meter test/meter reading discrepancies.* In the event that a customer suspects a discrepancy in meter readings, the following procedures will be followed.

(1) Customer shall notify the Finance Department located in City Hall, of specific discrepancies.

(2) The utility staff shall review customer consumption history. If findings indicate that a discrepancy is possible, the meter shall be re-read.

(3) If the City is requested to test a consumer's utility meter and if that meter is found to be inaccurate, then the meter shall be replaced with an accurate meter. If the meter is found to be accurate, the meter shall be reinstalled and the consumer shall be billed a fee by the City for the cost of the test at the rate listed in the City's adopted fee schedule. (Ord. 2014-04, 3rd Series, Adopted 2-03-14)

(4) In the case of remote water meters where there is a discrepancy between the outside reader and the inside reader, the inside master meter reading shall be used.

(5) For final billings the utility staff will take a reading on both inside and outside meters

when possible.

(G) *Unlawful acts.*

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

(2) It is unlawful for any person to make any connection with any municipal utility system without first having applied for and received permission from the City to make the same.

(3) It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the City for nonpayment of a bill, or for any other reason, without first having obtained a permit to do so from the City.

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

(5) It is unlawful for any person to distort any meter readings or meter accuracy. Any meters damaged as a result of any attempt to distort meter readings or meter accuracy will be repaired by the Utility Department at the consumer's expense.

(H) *Municipal utility charges a lien.*

(1) Statements for municipal utility charges shall be rendered to the consumer at the usual times and in the usual manner. If any such municipal utility bill remains unpaid for period of more than 30 days, then a statement of the delinquent and unpaid service charge shall be served by mail or personally upon the consumer. If the consumer fails or refuses to pay bills for utility charges relating to the premises within a period of 30 days after statement of the charges has been duly rendered the City may disconnect and discontinue to provide utility service for the premises as provided by division (I).

(2) Each charge levied by and pursuant to this chapter is hereby made a lien upon the premises served by a connection to a municipal utility system of the City and located within the City; and all the charges which are more than 60 days past due, and having been properly billed to the consumer of the premises served, shall be certified by the City Clerk to the County Auditor and the City Clerk in so certifying the charges to the County Auditor shall specify the amount thereof and the description of the premises served, the name of the owner thereof, and the amount so certified shall be extended by the Auditor on the tax rolls against the premises in the same manner as other taxes, and collected by the County Treasurer and paid to the City along with other taxes.

(Prior Code, § 12.04) (Am. Ord. 540, passed 10-17-2005)

(I) *Disconnection.*

(1) It is the policy of the City to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The City's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(a) That all bills are due and payable on or before the date set forth on the bill; and

(b) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within 10 days of the mailing of the second bill, service will be discontinued for nonpayment; and

(c) That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the City official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Except as specifically authorized in this Section, requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(3) When it becomes necessary for the City to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only during regular business hours of the Utility Department and only after all bills for service then due have been paid, along with a turn-on charge in an amount established by ordinance by the City Council. Penalty, see § 10.99

(J) *Penalty Waiver.*

(1) The Finance Department may grant a one-time waiver of the 10% penalty on delinquent utility bills upon the customer satisfying the following conditions:

(a) The customer must submit a written request for waiver of penalty to the Finance Department postmarked or hand delivered to the Finance Department no later than the thirtieth day of the month following the date upon which the utility bill became delinquent.

(b) The customer must enroll in a program authorized by the Finance Department to allow for automatic deduction of all future utility bill payments from a checking or savings account designated by customer. Any costs imposed by the financial institution for establishing the automatic deduction shall be paid by the customer.

(c) The customer must sign an agreement and authorization form by which the customer agrees that the automatic deduction authorization may not be revoked by the customer without the consent of the Finance Department for a period of six months and if for any reason the automatic deduction authorization is revoked, or if additional utility bills become delinquent for any reason during the same six month period, the full amount of the penalty previously waived, plus any additional penalties which may be imposed by the subsequent delinquency, shall become immediately due and payable by the customer.

(2) The penalty waiver shall be applied only one time during the duration of the utility account regardless of the number of responsible individuals or owners of the property serviced by the account. (Am. Ord. 2008-3, 3rd Series, passed 2-4-2008) Penalty, see § 10.99 (Ord. 2012-12, 3rd Series, passed 06-18-12)

§ 51.04 DEFINITIONS; WATER AND SEWER.

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

BUSINESS ESTABLISHMENT. Any building, lot, parcel of land, or other premises used primarily for the purposes of conducting a business, trade, or profession thereon and the establishment shall be deemed to include all dwelling units which are appurtenant thereto.

DWELLING. One or more rooms occupied as a residence and equipped for the use of the sewerage system.

INDUSTRIAL WASTES. Those particular liquid discharges from any process of industry, manufacture, trade or business having a concentration of B.O.D. or S.S. of more than 500 parts per million. Industrial cooling or condenser waters which do not come in contact with any industrial process, and for which specific approval is given for discharge into a natural watercourse, are specifically excluded from this definition.

SEWAGE. Is herein defined as the water carried waste created in and to be conducted away from residences, industrial and commercial premises, or institutions having a concentration of B.O.D. or S.S. of 500 parts per million or less.

SEWERAGE SYSTEM. Includes all street lateral, main and intersecting sewers and structures by which sewage or industrial wastes are collected, transported, treated and disposed of; provided, that this shall not include plumbing inside or a part of a building or premises served, or service sewers from a building to the street lateral. (Prior Code, § 12.20)

§ 51.05 RULES AND REGULATIONS; WATER AND SEWER.

(A) *Water and sewer service pipe and connections.* As to all water and sewer service pipes and connections not covered in size and type of material by the Minnesota Plumbing Code, the City shall specify the kind and size before connections may be made with mains, and consideration may be given by the City to the type of equipment and supplies on hand for making the connection before permitting the same.

(B) *Private fire hose connections.* All individual connections to the sanitary sewer system and/or water system shall be charged access fees with the exception of fire services that only provide water to fire sprinkling systems. Proprietors of lumber yards, factories, halls, stores, elevators, warehouses, hotels, or other buildings, if they are regular municipal water consumers, may connect the street mains with hydrants, large pipes, and hose couplings, for use in case of fire only and free of charge for the use, but at their own installation expense.

(C) *Unlawful acts.*

(1) It is unlawful for any person, not expressly authorized by the City, to tap a water distribution main or sewerage collection main.

(2) It is unlawful for any person, other than members of the Fire Department or another person duly authorized by the City, in pursuance of lawful purpose, to open any fire hydrant or attempt to draw water from the same or in any manner interfere therewith. It is also unlawful for any person so authorized to deliver or suffer to be delivered to any other person any hydrant key or wrench, except for the purposes strictly pertaining to their lawful use.

(3) No sewerage (including industrial wastes) shall contain any substance which is deemed by the City to be deleterious to the operation of the sewerage system. If any person discharges any deleterious substances therein, he or she shall be required to discontinue the discharge of the substances into the sewerage system. It is unlawful for any person to, after 10-days' written notice from the City, continue discharging the deleterious substances into the sewerage system.

(4) It is unlawful for any person to make or maintain a connection, between eave troughs, rain spouts, footing drains, or any other conductor used to carry natural precipitation or ground water, and the sewerage system or any part thereof.

(5) It is unlawful for any person to construct, alter, or extend any drain or sewer connected or proposed to be connected to the sewerage system, without first having the plans and specifications therefore approved by the City.

(6) It is unlawful to connect a steam exhaust or blow-off with a drain which also connects with the sewerage system.

(7) It is unlawful to connect a drain from a laundry, hotel, restaurant, or other public cooking establishment, with the sewerage system, without a grease trap or grated basin.

(8) It is unlawful to drain waste from dyeing clothes, cleaning, or other establishments using naphtha, gasoline, or other inflammable liquids into the sewerage system.

(9) It is unlawful to connect a drain from a butcher shop, rendering establishment, packing house, creamery, or other establishments with the sewerage system without intercepting it with some form of catch basin or grated basin.

(10) It is unlawful to connect an automobile or other similar wash rack, drain with the sewerage system without providing for a catch basin approved by the City to prevent entrance of dirt and refuse from the wash-rack.

(11) It is unlawful for any owner, tenant, agent, occupant, or other person having charge of any premises to maintain thereon any drain or sewer connected with the sewerage system in a clogged obstructed, broken or damaged condition.

(12) It is unlawful for any person to discharge or cause or permit to be discharged any sewage

or unwholesome matter into any lake or public waters.

(D) *Responsibility of property owner.* Notwithstanding provisions of this chapter relating to ownership of municipal utility facilities, the property owner served thereby is responsible for installation and maintenance of all lateral sewer and water facilities from the main (owned and maintained by the City) regardless of whether they may be on public or private property.

(E) *Remote reading type water meter required.* In all construction, remote reading type water meters shall be installed at the expense of the owners. The water meter shall be purchased from the City, with the meter purchase price included in the construction permit fee. The water meter will be available for pick up by the contractor at the Public Works Garage during regular business hours. The meter shall be installed by a private contractor. Upon completion of meter installation, the contractor shall notify the Utility Department. The Utility Department will then install the remote reading device

on the water meter. Water meter charges and remote reading device installation fees shall be set by the City Council by resolution.

(F) *Inspection.* Notice must be given to the City by every person who is constructing or altering any sewer or drain connected or proposed to be connected with the sewerage system when the work is ready for inspection and before rendering the inspection impossible by covering the work. Installation of water service lines 4 inches in diameter or greater will require inspection by a representative of the City's Public Works Department. This inspection will include at a minimum, a hydrostatic pressure test or visual leak detection test at the discretion of the inspector. The contractor shall hire a City approved independent testing laboratory to collect and analyze a water sample to determine if the water main is bacteriologically safe. The water sampling must be witnessed by the City's inspector. Water will remain shut off to the water service line until the City receives a passing report from the independent testing laboratory. Utility inspection fees, including a re-inspection charges, shall be set by the City Council by resolution.

(G) *Water conservation.*

(1) *Lawn sprinkling.* It is unlawful for the owner or occupant of any property to sprinkle a lawn, wash a motor vehicle or to accomplish any non-essential use not involving private or public sanitation or health when the same is prohibited in accordance herewith.

(2) *Water emergency.* After 24-hours' notice following broadcast by local radio stations, or immediately after hand-delivered special notice that a water emergency exists, it is unlawful for the owner or occupant of any property to use water for sprinkling a lawn, washing a motor vehicle, or any other non-essential use not involving private or public sanitation or health. The water emergency shall continue until further notice by local radio station or newspaper.

(3) *Ban.* From May 15 to September 1 of each year, an odd/even lawn sprinkling ban shall be in effect for all lawn sprinkling systems supplied by water from the City of Hastings water utility. Properties with even numbered addresses may sprinkle lawns only on days with even numbered dates. Properties with odd numbered addresses may sprinkle only on days with odd numbered dates. A 1-week exemption from the odd/even sprinkling ban may be granted for newly planted sod, grass or landscaping upon registering for the exemption and recommendation of the Hastings Utility Department. Other exemptions may be granted upon evaluation and recommendation of the Hastings Utility Superintendent. The utility billing address will establish the permitted odd or even day for

sprinkling for homeowners associations with both odd and even residences.

(H) *Connection to City sanitary sewer and water mains.*

(1) It is unlawful for any person not expressly authorized by the City to tap a water distribution main or sewage collection main.

(2) All individual connections to the sanitary sewer system and/or water system shall be charged access fees with the exception of fire services that only provide water to fire sprinkling systems. At the time of connection to the sanitary sewer system and/or water system, or expansions to existing sanitary sewer and water services that result in MCES sewer availability charges being levied, all necessary permits, licenses, and fees, including but not limited to water availability charges (WAC), MCES sewer availability charges (SAC), City sewer availability charges (SAC), meter charge and permit fee, shall be paid by the owner in addition to the fees provided for by Paragraph E, if applicable.

(a) The number of City SAC units and the number of WAC units charged at the time of connection to the sanitary sewer system and/or water system shall be equal to the number of MCES SAC units charged. A single WAC unit will be charged for water main connections for lawn irrigation services 2 inches in diameter and smaller. Lawn irrigation services larger than 2 inches in diameter must be approved by the City Council and the WAC fee will be based on the ratio of pipe area to 2-inch diameter pipe.

(b) Collected water availability charges and City sewer availability charges shall be used to fund water system and sanitary sewer system capital improvements.

(c) Water availability charges (WAC) and sanitary sewer connection fees shall be determined by the Council and adopted by resolution.

(3) All easement rights necessary to connect to the sanitary sewer and/or water system shall be acquired at the expense of the property owner.

(4) All costs related to the connection of the sanitary sewer service and/or water service to the property shall be borne by the property owner.

(5) Any property which is sought to be connected to the City sanitary sewer and/or water systems and which was not assessed for the sanitary sewer and/or water mains when they were installed shall, in addition to the charges listed in division (H)(2) above, be charged a connection fee equivalent to the front footage of the lot multiplied by the average annual rate of assessment being assessed for sanitary sewers and/or water mains during the year in which the connection is made. The annual rate of assessment shall be determined by the City Engineer.

(I) *Sewage and waste control rules and regulations adopted.* The MCES Rules and Regulations are hereby adopted by reference as though set forth verbatim herein.

(J) *Required hookup to City sanitary sewer.* All properties currently served with on-site sewer systems shall be required to hookup at owner's expense to City sanitary sewer within 1 year of such time as service becomes available to a property boundary. Furthermore, properties currently being served by on-site sewer systems which have available access to City sanitary sewer as of the effective date of this section (1-14-1994) shall be required to hook-up within 1 year.

(K) *Required hookup to City water.* All properties currently served with private wells for potable water needs shall be required to hookup at owner's expense to the City water system within 1 year of such time as service becomes available to a property boundary. Furthermore, properties currently being served by private wells which have available access to City water service as of the effective date of this section (1-14-1994) shall be required to hook-up within 1 year. (Prior Code, § 12.21)

(L) *RPZ reporting requirements.* All facilities with RPZ installations shall forward a copy of the Minnesota Department of Health required annual inspection report to the Public Works Department for review. Failure to provide the Public Works Department with a copy of the RPZ annual inspection report may result in disconnection of the water service. (Ord. 545, passed 3-6-2006) penalty, see § 10.99

§ 51.06 SANITARY SEWER, WATER MAIN, AND UTILITY SERVICE IMPROVEMENT SPECIAL ASSESSMENT POLICY.

(A) *Generally.* Sanitary sewer, water main, and utility service improvements shall be assessed as 1 combined project cost with street, sidewalk, and storm sewer improvements based on estimated benefit of the improvements of the property assessed. Benefit shall be defined as the increase in property value attributable to the public improvements. The cost of replacing existing water and sanitary sewer service lines within the street right-of-way as part of a street reconstruction project shall not be assessed against abutting property but shall be funded by the City Water or Wastewater Fund.

(B) *Determination of benefit.* The estimated benefit of the public improvements shall be determined by the Public Works Director, subject to approval by the City Council, and based on an opinion of special benefit for a typical property prepared by a Certified General Real Estate Appraiser.

(C) *Sanitary sewer, water main, and utility service improvements.*

(1) Assessments for the construction of sanitary sewer lines greater than 10 inches in diameter shall be on the basis of an equivalent 10-inch diameter sanitary sewer. The additional cost for installing sanitary sewer lines greater than 10 inches in diameter shall be paid by the City. Assessments for the construction of water mains greater than 8 inches in diameter shall be on the basis of an equivalent 8-inch diameter water main. The additional cost for installing water mains greater than 8 inches in diameter shall be paid by the City.

(2) The cost of replacing or repairing existing sanitary lines shall not be assessed against abutting property owners but shall be funded by the City's Waste Water Fund. The cost of replacing or repairing existing water mains shall not be assessed against abutting property owners but shall be funded by the City's Water Fund.

(3) A presumption will be made for new sanitary sewer, water main, and utility service construction that the project cost of the ordered improvements divided among the improved properties will be less than or equal to the special benefit of the improvements to the properties being assessed. The project cost shall reflect the maximum equivalent costs of a 10-inch diameter sanitary sewer and 8-inch diameter water main as listed above. The Public Works Director may order an opinion of

special benefit if the Public Works Director questions whether the project cost may exceed special benefit, or if the property owner(s) to be assessed request(s) an opinion of special benefit and the City Council orders the opinion of special benefit to be performed.

(4) A per lot assessment basis shall be used for new sanitary sewer, water main, or utility service improvements, except where inconsistencies in lot size, frontage, and/or development densities exist, in which case assessments based on abutting frontage may be used. In general, there should be no City participation for new sanitary sewer, water main, or utility service improvements except for large sanitary sewer or water mains as listed above.

(D) *Unusual conditions.* This assessment policy is intended to set guidelines for assessing improvements and yet to be general and flexible enough so that the most logical method may be chosen to fit individual circumstances. To meet extreme or very unusual conditions, the City reserves the right to levy an assessment or an improvement in a manner not outlined in this policy without affecting or negating any portion of this policy for use in normal conditions. (Prior Code, § 12.31)

Cross-reference:

For street, sidewalk and storm sewer assessments, see § 90.15

§ 51.07 INTERCEPTOR SEWER CHARGES.

(A) *Generally.* All newly platted residential, commercial, industrial, and institutional development shall be charged interceptor sewer charges, which shall be collected at the time of platting. The interceptor sewer charge shall be determined by the Council and adopted by resolution. The resolution, containing the effective date thereof, shall be kept on file and open to inspection in the office of the City Clerk, and shall be uniformly enforced.

(B) *Determination of charges due.* One interceptor sewer charge shall be collected for each residential unit proposed to be developed. Six interceptor sewer charges shall be collected for every acre of commercial, industrial, or institutional development proposed to be developed. The number of interceptor sewer charges to be paid by the developer shall be determined by the Planning Director through a review of the development's preliminary plat.

(C) *Development of unplatted property.* When development occurs on unplatted property where sanitary sewer service is available, an interceptor sewer charge shall become due and payable upon site plan approval and before any development occurs on the property or before any building permits are issued for the property.

(D) *Use of charges.* Collected interceptor sewer charges shall be used to fund sanitary sewer system capital improvements. (Prior Code, § 12.60) Penalty, see § 10.99

§ 51.08 SEWER SERVICE CHARGES.

(A) For the purpose of providing funds to meet operating and maintenance cost of the sewerage system, there is hereby levied and assessed upon each lot, parcel of land, building, or premises which may have an active sewer connection with the sanitary sewerage system of the City, or which may otherwise discharge sewage or industrial waste either directly or indirectly, into the system or any part thereof. The charges and rates shall be based upon the quantity of water used thereon or therein as the quantity may be measured by the water meter or meters of the City Utility Department serving the lot, parcel of land, or premises. The charges and rates shall be calculated upon a quantity basis and shall

be determined and payable as hereinafter provided.

(B) Charges for single and 2-family dwellings shall be based on a winter-quarter water meter reading except as otherwise provided and except as noted in division (C) below. The winter-quarter reading shall include 3 of the following months: November, December, January, February, or March. The amount of water used in the winter-quarter shall be used to compute the quarterly charge for each sewer connection and the charge shall apply for the remaining 3 quarters of the year. The 3 months that apply shall be as determined by operating procedures of the City Utility Department, applied on a uniform basis. This division (B) shall continue the procedures and methods previously applied for determining the applicable single- and 2-family dwelling sewer service charges.

(C) For customers who show minimal or no consumption for the winter quarter, the City will use a fixed amount of gallons (to be set by City Council resolution) as a base rate for these winter vacationers for the remaining 3 quarters. This base rate will be used unless the following quarter's consumption is less, than that consumption will be used for their sewer rate.

(D) If any lot, parcel of land, or premises which discharge sewage or industrial wastes into the sanitary sewerage system, either directly or indirectly obtains part or all of the water used thereon from sources other than the City Utility Department and the water so obtained is not measured by a meter in a manner which is acceptable to the Council, then, in such case the Council shall permit the discharge of the sewage or industrial waste into its sanitary sewerage system only when the owner of the lot, parcel of land or premises or some other interested party at his or her expense shall install and maintain a water meter which shall be satisfactory to the Council. The water meters shall be installed so as to measure all water received on the lot, parcel of land, or premises and the above charges and rates shall be applied to the quantity of water received, as measured by the meters. However, if it shall be deemed impracticable by the Council to measure the water used on any lot, parcel of land, or premises, a flat charge may be made in accordance with estimated use of water on the lot, parcel of land, or premises.

(E) If a lot, parcel of land, or premises discharges sewage or industrial waste into the sanitary sewerage system, either directly or indirectly, and the amount of water is such that the rate of charge will be in excess of the minimum bill therefore and if it can be shown to the satisfaction of the Council that a portion of the water measured by the water meter or meters does not and cannot enter the sanitary sewerage system, then, and in that event, the Council is hereby authorized to determine, in such a manner and by the method as they may deem practicable, the percentage of the water measured by the meter which enters the sanitary sewerage system. In such case the charges and rates shall be based upon the percentage of the metered water so determined by the Council. In the alternative, in any such case of other or additional meters in the manner that the quantity of water which actually enters the sanitary sewerage system may be determined; in that case the charges or rates shall be based upon the amount of water so shown actually to enter the sewerage system.

(F) For any lot, parcel of land, or premises from which connection is made with the City sewerage system, or which begins to discharge sewage or industrial waste into the City sewerage system either directly or indirectly, after this section becomes effective, the charges and rates for the first payment period after the beginning date of sewage or industrial waste discharge into the City sewerage system, shall be based upon the per diem pro rata amount of the established minimum charge or shall be based upon the water consumed at the established rates, whichever is the larger.

(G) The Council shall have the power to classify the sewage or industrial wastes discharged into the sewerage system based upon its concentration and cost of disposal and fix just and reasonable rates

and charges for its disposal according to the classification, and the Council shall have the power to increase or decrease all rates and charges in this section provided for as the same may be reasonably required.

(H) The City Finance Department shall compute the amount due the City for service charges and render a statement thereof quarterly, or at the times as the Council may direct, to the owner or occupant of any premises served, or to both. All amounts due hereunder shall be payable at the office of the City Treasurer, or where otherwise designated by the Council. (Prior Code, § 12.70)

§ 51.09 INDUSTRIAL USER STRENGTH CHARGE.

(A) *Recitals.* The MCES organized and existing under the laws of the State of Minnesota (the Commission), in order to receive and retain grants in compliance with the Federal Water Pollution Control Act Amendments in 1972 and regulations thereunder (the Act), has determined to impose an industrial user sewer strength charge upon users of the Metropolitan Disposal System (as defined in M.S. § 473.121, Subdivision 24, as it may be amended from time to time) to recover operation and maintenance costs of treatment works attributable to the strength of the discharge of industrial waste, the sewer strength charge being in addition to the charge based upon the volume of discharge. In order for the City to pay the costs based upon strength of industrial discharge and allocated to it each year by the Commission, it is hereby found, determined, and declared to be necessary to establish sewer strength charges and a formula for the computation thereof for all industrial users receiving waste treatment services within or served by the City. Furthermore, M.S. § 444.075, Subdivision 3, as it may be amended from time to time, empowers the City to make the sewer charge a charge against the owner, lessee, occupant, or all of them and certify unpaid charges to the County Auditor as a tax lien against the property served.

(B) *Establishment of strength charges.* For the purpose of paying the costs allocated to the City each year by the Commission that are based upon the strength of discharge of all industrial users receiving waste treatment services within or served by the City, there is hereby approved, adopted, and established, in addition to the sewer charge based upon the volume of discharge, a sewer charge upon each company or corporation receiving waste treatment services within or served by the City, based upon strength or industrial waste discharged into the sewer system of the City (the strength charge).

(C) *Establishment of strength charge formula.* For the purpose of computation of the strength charge established by division (B) above, there is hereby established, approved, and adopted in compliance with the Act the same strength charge formula designated in Resolution No. 76-172 adopted by the governing body of the Commission on 6-15-1976, the formula being based upon pollution qualities and difficulty of disposal of the sewage produced through an evaluation of pollution qualities in excess of an annual average base and the proportionate costs of operation and maintenance of waste treatment services provided by the Commission.

(D) *Strength charge payment.* It is hereby approved, adopted, and established that the strength charge established by division (B) above shall be paid by each industrial user receiving waste treatment services and subject thereto before the twentieth day next succeeding the date of billing thereof to the user by or on behalf of the City, and the payment thereof shall be deemed to be delinquent if not so paid to the billing entity before the date. Furthermore, it is hereby established, approved, and adopted that if the payment is not paid before the date an industrial user shall pay interest compounded monthly at the rate of $\frac{2}{3}$ of 1% per month on the unpaid balance due.

(E) *Establishment of tax lien.* As provided by M.S. § 444.075, Subdivision 3, as it may be amended from time to time, it is hereby approved, adopted, and established that if payment of the strength charge established by division (B) above is not paid before the sixtieth day next succeeding the date of billing thereof to the industrial user by or on behalf of the City, the delinquent sewer strength charge, plus accrued interest established pursuant to division (D) above, shall be deemed to be a charge against the owner, lessee, and occupant of the property served, and the City or its agent shall certify the unpaid delinquent balance to the County Auditor with taxes against the property served for collection as other taxes are collected; provided, however, that the certification shall not preclude the City or its agent from recovery of the delinquent sewer strength charge and interest thereon under any other available remedy. (Prior Code, § 12.72)

▪ **51.10 STORM WATER UTILITY.**

A storm water utility is established with the inclusion of Section 51.10 as follows:
51.10 Storm Water Utility

(A) *Statutory authority.* Minnesota Statute ' 444.075, authorizes cities to impose just and equitable charges for the use and availability of storm sewer facilities. By this section, the City elects to exercise such authority, establishing a municipal storm water utility.

(B) *Purpose.* It is the intent of this section to establish a storm water utility to collect charges to finance costs associated with the operation and maintenance of the City's storm sewer system, and implementation of storm water management programs and storm water improvements.

(C) *Land use.* For the purpose of the storm water utility, land use categories are defined as follows.

(1) *Low Density Residential.* Detached single family dwellings less than 5 acres in size. For the purposes of calculating storm water utility fees, all Low Density Residential units are assumed to be 1/3 acre in size.

(2) *Medium Density Residential.* Lots containing multiple dwelling units such as duplexes, town houses, quad homes and associated common open space that is privately owned. For the purposes of calculating storm water utility fees, all Medium Density Residential units are assumed to be 1/6 acre in size.

(3) *High Density Residential.* Multiple dwelling units such as apartment complexes and senior housing, which are comprised of multiple levels of individual dwellings.

(4) *Manufactured housing.* Manufactured and mobile homes that are part of a common manufactured home park.

(5) *Commercial.* Properties that contain retail sales, offices, professional services, hotels or motels and private recreational facilities operated for profit such as theaters and bowling alleys.

(6) *Industrial.* Properties used for general contracting, manufacturing, warehousing, goods movement facilities, communications, utilities and wholesale trade.

(7) *Public/institutional.* Those schools, religious institutions, churches, hospitals, nursing homes, YMCA, state and federal government facilities and Dakota County government offices and library included in the list which is found in the following list.

TAXPIN	Full Name	Area - AC
196315001000	REGINA MEDICAL CENTER	0.66
196315002000	REGINA MEDICAL CENTER	6.14
196315001001	REGINA MEDICAL CENTER	5.65
193215006052	LIFE TABERNACLE	0.16
193215004015	UNITED STATES OF AMERICA	0.42
197730008001	INDEPENDENT SCHOOL DIST 200	6.03
193215102022	CHRISTS FAMILY CHURCH INC	0.21
193215103022	CHRISTS FAMILY CHURCH INC	0.21
193215105122	SOO LINE RR	0.08
193215106122	CHRISTS FAMILY CHURCH INC	0.21
193215107022	CHRISTS FAMILY CHURCH INC	0.21
193215108022	CHRISTS FAMILY CHURCH INC	0.21
193215101023	CHRIST'S FAMILY CHURCH INC	0.21
193215001216	HASTINGS ECONOMICDEV REDEV AUTHORITY	0.91
193215104022	CHRISTS FAMILY CHURCH	0.13
193215103123	CHRIST FAMILY CHURCH	0.32
193215006045	ST LUKES EPISC PARISH	0.42
193215008045	ST LUKES EPISC PARISH	0.42
190270001050	INDEPENDENT SCHOOL DIST 200	15.07
190270001188	CORNERSTONE BIBLECH	4.09
193215008047	ST ELIZABETH ANN SETON	1.70
190280001066	INDEPENDENT SCHOOL DIST 200	0.32
190280001066	INDEPENDENT SCHOOL DIST 200	53.74
191050020018	INDEPENDENT SCHOOL DIST 200	2.40

193215005065	OUR SAVIOURS LUTH CH	0.21
193215006065	OUR SAVIOURS LUTH CH	0.23
TAXPIN	<i>Full Name</i>	<i>Area - AC</i>
193215008065	OUR SAVIOURS LUTHCH	0.45
196660201001	SHEPHERD OF THE VALLEY LUTHERAN CHURCH	4.00
193220002000	COUNTY OF DAKOTA	0.08
193220001001	INDEPENDENT SCHOOL DIST 200	41.68
190290002035	COUNTY OF DAKOTA	7.43
190290001030	COUNTY OF DAKOTA	1.93
190290001030	COUNTY OF DAKOTA	36.63
193203001001	COUNTY OF DAKOTA	3.43
190290002051	INDEPENDENT SCHOOL DIST 200	12.15
191360003002	METH EPISC CH	0.61
191360005002	UNITED METHODIST CHURCH OF HASTINGS	0.30
191360008002	UNITED METHODIST CHURCH OF HASTINGS	0.30
191360009002	HASTINGS METH CH	0.30
191360012002	METH EPISC CH	0.61
191360004005	CALVARY BAPT CH	0.78
196580001001	CH ST ELIZABETH ANN SETON	18.46
190390003001	CALVARY BAPT CH	2.81
190320001001	ST PHILIPS LUTH CH	0.81
190320001001	ST PHILIPS LUTH CH	5.06
191187501001	AUGUSTANA HOME OF HASTINGS	3.87
190340001060	HASTINGS NATIONAL GUARD	6.15
193215006053	1ST JOHNS EVANG LUTH CH	0.30
193215008154	ST JOHNS EVANG LUTH CH	0.63
193215008055	THE CHURCH OF ST ELIZABETH ANN SETON	0.26
191050012023	IMMANUEL BIBLE CHAPEL	0.34

193215008178	INDEPENDENT SCHOOL DIST 200	0.85
193215002044	FIRST UNITED PRESB CH	0.42
TAXPIN	Full Name	Area - AC
196320201001	REGINA MEDICAL CENTER	12.38
190280001268	INDEPENDENT SCHOOL DIST 200	1.43
193215002065	OUR SAVIOURS LUTH CH	0.45
193215003065	OUR SAVIOURS LUTH CH	0.23
193215004065	OUR SAVIORS EVANGEL LUTHERAN CHURCH	0.21
193215004068	FIRST BAPTIST CH	0.85
193215008178	INDEPENDENT SCHOOL DIST 200	0.83
193215007077	INDEPENDENT SCHOOL DIST 200	0.55

(8) *Golf course.* Public and private golf courses.

(9) *Agricultural.* Undeveloped land which is used primarily for agricultural purposes and may include a homestead or other structures.

(10) *Open space/vacant.* Undeveloped land that is used for non-agricultural purposes, such as cemeteries and vacant lots with no existing structures.

(D) *Rate structure.* The charges imposed as a part of this storm water utility shall be derived from parcels net acreage and residential equivalency factor (REF). The REF is defined as the ratio of runoff volume generated by 1 acre of low density residential land. The residential equivalency factors for each land use established as part of this storm water utility shall be as follows:

<i>Land Use</i>	<i>REF</i>
Low Density Residential	1.0
Medium Density Residential	1.1
High Density Residential	1.3
Manufactured Housing	1.0
Commercial/Office	1.6
Industrial	1.4
Golf Course	0.6
Open Space/Vacant	0.6

Agricultural	1.0/parcel
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(1) All storm water utility fees shall be calculated based on the following formula (REF) (Base Rate as established by the City Council) = Rate per Acre.

(2) Low Density Residential and Medium Density Residential parcels shall be charged on a per unit basis with respect to the average lot sizes described above. Agricultural parcels shall be charged 1.0 REF regardless of parcel size. All other land uses shall be charged on a per acre basis.

(3) The quarterly base rate shall be established by City Council and amended by Council annually as deemed necessary.

(4) Exemptions: The following land uses are exempt from the storm water utility fee:

- (a) Public rights-of-way;
- (b) Public/institutional properties;
- (c) Delineated wetlands, lakes, ponds and rivers;
- (d) Land outside of the City; and
- (e) Other properties as deemed appropriate by the City Council.

(E) *Billing, payment and penalty.* These charges shall be included on the utility accounts of each property and are payable in accordance with the provision for filing and payment of municipal utility bills. Penalties for late payment or non-payment of billings for charges shall be the same as those applicable for municipal utility billings.

(F) *Rate appeal.* Property owners may appeal their storm water utility fee by providing data demonstrating that the actual storm water runoff volume from their site is substantially different from that of the assigned Land Uses. These appeals shall be made to the City Administrator who may recommend adjustments to individual parcels based on information provided to the City Council for consideration. No adjustments to the utility fee shall be made retroactive.

(G) *Credits.* Properties of 2 acres in size or greater may receive a 50% credit on their storm water utility charge by installing and maintaining storm water runoff control features that retain 100% of the property's runoff from a 10 year storm event, defined as a 4.1 inch rainfall. The City Administrator shall determine whether a storm water runoff control feature meets the credit criteria and is being properly maintained. Failure to properly maintain a storm water control feature may result in loss of the credit. (Ord. 2009-15, 3rd Series, passed 1-19-2010)