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CHAPTER 50: SOLID WASTE

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§ 50.01 PURPOSE AND APPLICATION.

(A) (1) The Sanitary Board of the Western Lake Superior Sanitary District (the "District"), which includes the city within its boundaries, is empowered by its enabling legislation to regulate the disposal of solid waste within its boundaries (Laws of Minnesota 1989, First Special Session, Chapter 1 (the "Score Legislation")).

(2) To reduce the volume of solid waste requiring disposal within the state, the Score Legislation requires the District and other governmental agencies in the state responsible for disposal of solid waste to give residents an opportunity to recycle which must include:

(a) Local recycling center in the District and sites for collecting recyclable materials that are located in areas convenient for persons to use them; and

(b) Curbside pickup, centralized drop-off or a local recycling center for at least four kinds of recyclable materials in cities with a population of 5,000 or more persons.

(B) The District has adopted an ordinance relating to mixed municipal solid waste management and recycling which would become effective within the city unless the city adopts an ordinance which:

- (1) Creates a system of licensing collectors;
- (2) Regulates rates for collection;
- (3) Mandates collection of mixed municipal solid waste;
- (4) Provides residents an opportunity to recycle as required by M.S. § 115A.552, subd. 1 and 2, as they may be amended from time to time;
- (5) Supplies the District copies of all license applications for collectors on a monthly basis; and
- (6) Provides a certified copy of the ordinance to the District within five days following enactment.

(C) The City Council supports the goals of the score legislation and believes it is in the best interest of its residents to design methods of accomplishing the goals consistent with factors unique to the city.

(Prior Code, § 505.01)

§ 50.02 DEFINITIONS.

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

BACKYARD COMPOST SITE. A site used to compost food scraps or yard waste from a single family or household, apartment building or a single commercial office.

BOARD. The Sanitary Board of the Western Lake Superior Sanitary District.

BULKY ITEMS. Items of solid waste which do not fit within a container.

CITY. The City of Proctor.

CITY COUNCIL. The City Council of the City of Proctor.

CLERK-TREASURER. The duly appointed Clerk-Treasurer of the City of Proctor.

COLLECTOR. The person or entity specifically licensed by the city to collect garbage, rubbish or other mixed municipal solid waste and recyclable materials and to dispose of same.

COMPOSTING. The controlled microbial degradation of organic waste to yield a humus-like product.

CONTAINER. A container for solid waste which meets the requirements set forth in § 50.03.

DEMOLITION DEBRIS. Inert material that includes concrete, brick, bituminous concrete, untreated wood, masonry, glass, rock and plastic building parts resulting from the demolition of buildings, roads and other human-made structures. **DEMOLITION DEBRIS** does not include solid waste or asbestos waste.

DISTRICT. The Western Lake Superior Sanitary District.

FACILITY. The land, structures, monitoring devices and other improvements on the land used for monitoring, treating, processing, storing or disposing of solid waste, leachate or residuals from solid waste processing.

GARBAGE. Discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

HAZARDOUS SUBSTANCE.

(1) Means:

(a) Any commercial chemical designated pursuant to the Federal Water Pollution Control Act, under 33 U.S.C. § 1321(b)(2)(A);

(b) Any hazardous air pollutant listed pursuant to the Clean Air Act, under 42 U.S.C. § 7412; and

(c) Any other substance which constitutes a hazardous waste under state law or federal law.

(2) **HAZARDOUS SUBSTANCE** does not include natural gas, natural gas liquids, liquified natural gas, synthetic gas usable for fuel or mixtures of synthetic gas and natural gas; nor does it include petroleum, including crude oil or any fraction thereof which is not otherwise a hazardous waste. **HAZARDOUS SUBSTANCE** does not include household hazardous waste.

HOSPITAL WASTE. All solid waste generated by a hospital except infectious waste and pathological waste.

HOUSEHOLD HAZARDOUS WASTE. All those waste chemicals and compounds which would be considered hazardous substances under state law and are generated by residential dwelling units.

INDUSTRIAL SOLID WASTE. All solid waste generated from an industrial or manufacturing process and solid waste generated from non-manufacturing activities such as service and commercial establishments. **INDUSTRIAL SOLID WASTE** does not include office materials, restaurant and food preparation waste, discarded machinery, demolition debris or household refuse.

INFECTIOUS WASTE. Laboratory waste, blood, regulated body fluids, medical sharps and research animal waste that have not been decontaminated. For purposes of this definition, **LABORATORY WASTE** means waste cultures and stocks of agents that are generated from a laboratory and are infectious to humans; discarded contaminated items used to inoculate, transfer or otherwise manipulate cultures or stocks of agents that are infectious to humans; wastes from the production of biological agents that are infectious to humans; and discarded live or attenuated vaccines that are infectious to humans. For purposes of this definition, **REGULATED HUMAN BODY FLUIDS** means cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid and amniotic fluid that are in containers or that drip freely from body-fluid soaked solid waste items. For purposes of this definition, **RESEARCH ANIMAL WASTE** means carcasses, body parts and blood derived from animals knowingly and intentionally exposed to agents that are infectious to humans for the purpose of research, production of biologicals or testing of pharmaceuticals.

INSTITUTIONAL FACILITIES. Schools, courthouses, hospitals, "in-house" municipal programs and the like for collecting recyclable materials.

MEDICAL SHARPS.

(1) Discarded items that can cause subdermal inoculation of infectious agents, including needles, scalpel blades, pipettes and other items derived from human or animal patient care, blood banks, laboratories, mortuaries, research facilities and industrial operations; and

(2) Discarded glass or rigid plastic vials containing infectious agents.

MIXED MUNICIPAL SOLID WASTE. Garbage, refuse and other solid waste from residential, commercial, industrial and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil and other materials collected, processed and disposed of as separate waste streams.

OWNER and **OCCUPANT.** The person(s) or entity(s) which hold legal or beneficial title to a property and the person(s) or entity(s) which have or exercise possession or occupancy of a property, respectively.

PATHOLOGICAL WASTE. Human tissues and human body parts removed accidentally or during surgery or autopsy intended for disposal. **PATHOLOGICAL WASTE** does not include teeth.

RECYCLABLE WASTE. Any materials that are designed as recyclable materials by regulation of the District.

RECYCLING FACILITY. A site permitted by the State Pollution Control Agency, used to collect, process and repair recyclable materials and reuse them in their original form or use them in manufacturing processes.

RUBBISH. Non-putrescible solid wastes, including ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

SOLID WASTE. All garbage, rubbish and other discarded solid materials including solid materials resulting from industrial, commercial, agricultural and residential uses, but does not include recyclable materials, demolition debris, animal waste used as fertilizer, solids or dissolved material in domestic sewage, or other significant pollutants in water resources, such as silt, wastewater effluent, dissolved materials, suspended solids in irrigation return flows or other water pollutants.

UNACCEPTABLE WASTE. Solid waste designated as unacceptable waste by regulation of the District.

YARD WASTE COMPOST FACILITY. A site used for the composting of yard waste which is:

(1) Operated by the District or the city; or

(2) Operated by a private person or entity and permitted by the State

Pollution Control Agency to accept yard waste.

(Prior Code, § 505.02)

§ 50.03 WASTE DISPOSAL.

(A) Commencing January 1, 1992, every person or entity disposing of solid waste in the city shall separate recyclable materials from solid waste. The owner or occupants of each residence or residential unit and the owner or occupant of each

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nonresidential, commercial or industrial premises authorized to place solid waste in the various waste receiving facilities of the District, including its sanitary landfill, shall separate recyclable materials prior to collection by a collector.

(B) Persons or entities shall place recyclable materials in approved containers (an approved container can be either a bin or a bag at the discretion of the licensed collector) for collection, or, in the alternative, shall deliver recyclable materials to the recycling facility of their choice.

(C) Owners of establishments at which there is public traffic, including, but not limited to, public buildings, hotels, motels, retail stores, theaters, college dormitories and church social halls, shall provide receptacles for recyclable materials alongside their present public receptacles for solid waste. The owners of these establishments shall not be required to separate items which the general public places in receptacles intended for solid waste.

(D) No person or entity other than the owner or the occupant of a residential, commercial or industrial structure, or the licensed collector which provided services to the structure, shall collect or gather recyclable materials set out for collection by a licensed collector.

(1) *Disposal of yard waste; composting.*

(a) After January 1, 1992, any person disposing of yard waste shall have the option of disposing of waste by one to the following:

1. Disposal in a backyard compost site;
2. Disposal in a yard waste compost facility operated by the city or the District; or
3. Disposal in a privately operated yard waste compost facility.

(b) Yard waste shall not be placed in the waste receiving facilities of the District. No person or entity shall cause, allow or permit the burning of yard waste, notwithstanding any permit which the person or entity may obtain from the state. Yard waste may be subject to periodic pickup by a licensed collector. Yard waste collected for the purpose of composting shall not be disposed of in any other manner.

(2) *Disposal of demolition debris.* Any person disposing of demolition debris shall transport the waste to any site designated by the State Pollution Control Agency for receipt of the waste.

(3) *Disposal of bulky items.* Any person disposing of bulky items shall transport the waste to any site designated by the District for receipt of the waste. If service is provided, bulky items may be subject to periodic collection by a licensed collector.

(4) *Waste preparation and storage.*

(a) No owner or occupant of any private property or business property shall permit any accumulation of solid waste or any similar material or mixture of material upon the property or upon any adjoining property, alley, street, sidewalk or highway, except in proper containers as described below.

(b) Every owner or occupant of any private property or business property shall provide in good condition water-tight and rodent-proof containers sufficient to hold all the solid waste which accumulated on the premises during the time between collections. In the case of residential structures containing four or less dwelling

units, the containers shall be of a maximum size of 32 gallons, shall be provided with handles and a tight and securely fitted cover. All solid waste shall be placed in containers which shall not be filled in a manner which prevents closure of the container and, in the case of residential structures containing four or less dwelling units, the contents shall not exceed 45 pounds in weight.

(c) Every owner or occupant shall separate all automobile oil, motor vehicle batteries and tires from all solid waste and shall transport the same to the facility designated by the District for the handling of waste. Automobile oil shall be placed in an unbreakable, leak-proof receptacle by the owner or occupant. Motor vehicle batteries shall be transported in a manner which will not allow release or escape of their contents.

(d) No person or entity shall place solid waste in any container unless specifically authorized by the owner, occupant or licensed collector which provides collection services for the container. The disposal in a roadside litter receptacle of garbage or rubbish generated within an automobile shall not violate this provision.

(e) Every owner or occupant shall separate all household hazardous waste from all other solid waste. Containers with household hazardous waste shall be handled or transported in a manner which will not allow release or escape of the contents. All household hazardous waste shall be disposed of in accordance with the household hazardous waste program of the District, as the same shall exist at the time, or in an other manner as shall be specified by the District.

(f) Hospital waste, pathological waste, infectious waste, medical sharps, hazardous substances and other unacceptable wastes not specifically referred to in this section shall be disposed of in accordance with state law and as required by the District. Industrial solid waste shall be disposed of in accordance with the industrial solid waste management plan of the District, as the same shall exist at the time.

(5) *Mandatory collection of waste.* It shall be the duty of the owner and occupant of every residential structure containing four or fewer dwelling units to provide for not less frequent than weekly disposal of all mixed municipal solid waste generated by the dwelling units through employment of the services of a licensed collector. Owners of residential structures containing more than four dwelling units or of commercial or industrial establishments shall either employ a licensed collector for the removal of all mixed municipal solid waste from their premises or provide the removal service themselves, provided that the owner shall obtain a license under the chapter. The city, for those residential or commercial structures not in compliance with the mandatory collection provisions of this section, may assign collectors on a rotating basis to collect mixed municipal solid waste from the structures. Prior to assignment of collection under this section, written notice of the assignment shall be served upon the owner and/or occupant of the structure in question ten days before commencement of service. If an owner and/or occupant assigned a collector under this section fails to pay the collector for collection of mixed municipal solid waste, the city may require payment by the owner and/or occupant to the collector in the same manner as provided for in § 50.09.

(6) *Collection of recyclable materials.* On or before January 1, 1992, the City Council will designate certain areas of the city in which collectors will provide curbside collection of recyclable materials at least once each month. For areas of the

city in which collectors will not provide curbside collection of recyclable materials, the city will construct and operate at least one structure for the collection and disposal of recyclable materials or designate at least one privately operated location for the collection and disposal of recyclable materials.

(7) *Charges for collection.*

(a) On or before January 1, 1992, the City Council shall establish, by resolution, a schedule of rates for the collection of mixed municipal solid waste. The schedules of rates shall be fixed based upon the frequency of collection, the character and volume of solid waste collected and removed, distance between residences, and the distance and cost for delivery of solid waste to facilities of the District and create an incentive for persons within the city to reduce the amount of mixed municipal solid waste which requires disposal. The schedule of maximum rates shall require a minimum charge for collection based on a unit of volume per collection; provided, however, that there shall be a volume based charge for additional units of the same additional volume. The minimum charge must be sufficient to pay disposal costs of the minimum volume at the maximum allowable weight for the volume. The incremental cost of additional volume above the minimum charge must increase so that an owner or occupant will have a financial incentive to reduce the volume of mixed municipal solid waste that requires disposal. Each schedule of rates shall provide additional charges for bulky items. These charges may not be included in the minimum charge.

(b) In areas of the city designated by the City Council for curbside collection of recyclable materials where a collector provides mandatory collection of mixed municipal solid waste at a residential structure containing four or fewer dwelling units, there will be no additional charge for collection of recyclable materials.

(c) No collector or any agent thereof shall charge any rate in excess of the maximum rate, fail or refuse to make any collection, or charge rates for collection of solid waste which do not conform to the rules of this section. A copy of the maximum rate schedule shall at all times be kept on file in the offices of the city. The maximum rate schedule for collection shall be reviewed and determined by the City Council once each year. However, the City Council may modify the maximum rate at any time during a calendar year on 90 days' prior written notice to all collectors. In addition, the maximum rate schedule may be reviewed by the City Council, pursuant to a written request of any person residing, or any entity located, in the city. The city may also adopt the current maximum rate schedule of the City of Duluth by reference. (Prior Code, § 505.03) Penalty, see § 50.99

§ 50.04 LICENSING COLLECTORS OF SOLID WASTE AND RECYCLABLE MATERIALS.

For the health, safety and welfare of the residents of the city, the following regulations are applicable to all mixed municipal solid waste removal and disposal and handling of recyclable materials are established.

(A) *Collector's license required.* No person shall engage in the business of collecting or removing garbage, rubbish, other mixed municipal solid waste and recyclable materials within the city without first obtaining a license to do so. Charitable, religious, fraternal and other eleemosynary organizations may collect recyclable materials without compliance with this division (A).

(B) *License issuance.* Only collectors possessing a valid collector's license issued by the District shall be permitted to collect solid waste within the city as set forth within this chapter.

(Prior Code, § 505.04) Penalty, see § 50.99

§ 50.05 REPORTING REQUIREMENT.

(A) Beginning January 1, 1992, all collectors, owners which provide their own collection services under § 50.03(D)(5), recycling facilities, institutional facilities and commercial, retail and industrial businesses receiving or processing any recyclable materials shall provide quarterly written reports to the city and the District in a form prescribed by the District.

(B) Each quarterly report shall contain, at a minimum, for each type of material received or processed during the quarter:

(1) Weight by ton;

(2) Name and location of market to which the material was sold or delivered;

(3) Average price per ton received; and

(4) Inventory (in tons) of material in storage.

(C) Each quarterly report shall contain the certification that, based on the inquiry of the person(s) who manage the system or those persons directly responsible for gathering the information, the information is, to the best of their knowledge and belief, true, accurate and complete.

(D) Each collector or owner which provides its own collection services under § 50.03 and any yard waste compost facility shall submit quarterly reports to the city and the District of the tonnage of yard waste collected and disposed.

(E) Each collector shall provide the city and the District with an opportunity to inspect current customer lists.

(Prior Code, § 505.05)

§ 50.06 UNAUTHORIZED DISPOSAL OF SOLID WASTE.

Any person who:

(A) Deposits solid waste, recyclable materials, demolition debris or yard waste upon any public or private highway, street, road or right-of-way; deposits solid waste, recyclable materials, demolition debris or yard waste upon or within any river, creek, stream, lake waterway or other body of water of any kind or character; or deposits solid waste, recyclable materials, demolition debris or yard waste on the property of another;

(B) Causes, maintains or permits the accumulation of solid waste which creates an unsanitary condition or permits or encourages the accumulation or breeding of rats, insects or other vermin; or

(C) Deposits solid waste, recyclable materials, demolition debris or yard waste within the District in any manner that violates the provisions of this chapter is guilty of the misdemeanor of unauthorized deposit of solid waste.

(Prior Code, § 505.06) Penalty, see § 50.99

§ 50.07 ENFORCEMENT AND INSPECTION.

(A) Inspection and evaluation of containers and collectors shall be made by the City Building Official in a frequency as to ensure consistent compliance by the owners, occupants and collectors with provisions of the chapter. Each owner, occupant or collector shall be provided with written and documented notice of any deficiencies, recommendations for their correction and the date when the correction shall be accomplished. Each owner, occupant or collector shall be required to allow free access to authorized representatives of the city or to authorized representatives of any other governmental agency at any time for the purpose of making the inspections as may be necessary to determine compliance with the requirements of this chapter or any other applicable statute, ordinance or regulation.

(B) The city shall have the right to inspect private property to determine if a container or collector is in accordance with the provisions of the chapter.

(Prior Code, § 505.07)

§ 50.08 INTENT.

(A) It is the express intent of this chapter, specifically the recycling provisions hereof, to require the recycling of recyclable materials within the city in order to aid the District in meeting the goals specified in M.S. § 115A.551, as it may be amended from time to time.

(B) It is further the express intent of this chapter to recognize that the District has regional authority for the solid waste generated by residents of the city. Therefore, where this chapter is in contradiction to the rules and regulations of the District, the rules and regulations of the District shall supersede the specific portions of this chapter in contradiction or contravention of the rules and regulations of the District. This chapter shall not govern or control the disposal of hospital waste, pathological waste, infectious waste, medical sharps, industrial solid waste and hazardous substances.

(Prior Code, § 505.10)

§ 50.09 REGULAR EMPTYING; ASSESSMENT FOR FAILURE.

Every can or receptacle required by § 50.03 shall be emptied at least once each week, or more often as directed by the Council, at the expense of the owner, agent,

lessee or occupant of the property. If the can or receptacle is not emptied weekly, the Building Official shall cause the same to be emptied, and the cost thereof shall be collected from the owner, agent, lessee or occupant of the property. The costs may be certified to the County Auditor for collection as a special assessment pursuant to M.S. § 429.101, as it may be amended from time to time, and this chapter.
(Prior Code, § 505.11)

§ 50.10 LIST OF DELINQUENT ACCOUNTS.

(A) On or before June 1 of each year, each licensed collector or his or her assignee, may transmit to the Clerk-Treasurer a list of properties to which he or she has rendered collection and removal service pursuant to this chapter in the immediately preceding 17 months which has not been paid or previously assessed pursuant to this chapter, together with the amount due with respect to each property. The list shall be accompanied by a verified statement that the amounts indicated are, in fact, due and owing and that the licensed collector has made a reasonable attempt to collect the amounts.

(B) In addition, the Building Official shall, on or before October 10 of each year, transmit to the Clerk-Treasurer a list of properties to which collection and removal service has been rendered pursuant to this chapter, in the event the owner of the property has not earlier reimbursed the city for sums expended by it to secure the service.

(C) Upon the receipt of the lists, the Clerk-Treasurer shall make an assessment roll containing, in columns, the name of the owner of each lot or parcel of land separately assessed, if known to him or her, together with a description of each lot or parcel of land and the amount of the assessment.
(Prior Code, § 505.12)

§ 50.11 NOTICE OF ASSESSMENT.

On or before July 1 of each year, the Clerk-Treasurer shall certify the assessment roll to the City Council. The Clerk-Treasurer shall give 20 days' notice by first class mail to the apparent owner of each lot or parcel of land separately assessed stating the amount of the assessment, the description of the property that the assessment roll is on file in the Clerk-Treasurer's office, and the time at which the Council will meet to hear parties aggrieved by the assessment.
(Prior Code, § 505.13)

§ 50.12 APPEAL TO COUNCIL.

At the time stated in the notice of assessment, the Council shall meet, hear and determine all objections which may be made by any party interested in any assessment made under this chapter to the regularity of the proceedings or to the correctness of the

amount of the assessment or of the amount levied upon a particular lot or parcel of land. If the proceedings are found to be regular, it shall correct any errors which may have been found in the assessment and shall, thereupon by resolution, confirm the assessment. To each assessment a collection fee subject to city schedule of charges and fees shall be added to reimburse the city its administrative assessment costs. Immediately thereafter, notice of the confirmed assessment and its amount, including the collection fees, shall be sent by the City Treasurer by mail to the apparent owner of each lot or parcel of land assessed. The notice shall indicate that the assessment is due and payable on or before October 1 of the year when confirmed and that failure to make payment by the date shall render the assessment delinquent.
(Prior Code, § 505.14) (Ord. 02-05, passed 4-4-2005)

§ 50.13 CERTIFICATION OF DELINQUENT ASSESSMENTS.

On or before October 10 of each year, the City Treasurer shall file with the County Auditor a certified statement of all assessments delinquent under this chapter describing the land affected and giving the amount of the assessment, with 10% penalty added. Annually, the City Treasurer shall remit to the licensed collectors or their designated agents, all sums together with the interest thereon collected with regard to delinquent accounts submitted to the City Treasurer. Any penalty collected by the City Treasurer on the accounts shall be retained by the city. All accounts, including interest and penalty thereon, collected by the City Treasurer for service rendered and paid for by the city shall be retained by the city.
(Prior Code, § 505.15)

§ 50.99 PENALTY.

(A) *Violation.* Any owner, occupant or collector who fails to comply with the provisions of this chapter may be charged with a violation and upon conviction thereof shall be punished therefor as provided by law. A separate offense shall occur for each day of which a violation occurs or continues.

(B) *Equitable relief.* In the event of a violation or a threat of violation of this chapter, the Attorney for the city may take appropriate action to enforce this chapter, including, but not limited to, application for injunctive relief, action to compel performance or other appropriate action in District Court, if necessary, to prevent, restrain, correct or abate the violations or threatened violations.
(Prior Code, § 505.08)

CHAPTER 51: SEWERS

Section

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SEWER LATERALS

§ 51.01 DEFINITIONS.

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

BACKFLOW VALVE. A check valve specifically designed to prevent the reverse flow of sewage in a lateral.

BUILDING SEWERS. Sewer, soil pipe and drain pipes constructed within and under buildings.

CITY ENGINEER. The City Engineer of the city is a qualified engineering firm acting as City Engineer of the city or qualified designee.

PREMISES. A lot, parcel of land, building or establishment.

SEWAGE. All water or combination of liquid and water-carried solid or semi-solid waste conducted away from residences, business buildings, institutions and other sources, which is known as domestic sewage, together with liquid or water-carried solid or semi-solid waste resulting from a manufacturing process employed in industrial establishments, including the washing, cleaning or drain water from the process, which is known as industrial waste.

SEWER or SEWER MAIN. Any city owned sewer pipe within a city street or public right-of-way receiving or intended to receive the discharges of more than one sewer lateral. No sewer main constructed henceforth shall be less than eight inches in diameter nor be laid or constructed in any city street, easement or right-of-way or street, easement or right-of-way under the control of the city, except to the lines, grades and specifications approved by the proper city authority.

SEWER LATERAL or LATERAL. A privately-owned pipeline connecting a building sewer to a sewer main.

(Ord. passed - -2018; Ord. 04-19, passed 10-21-2019)

§ 51.02 CITY'S AUTHORITY TO ENFORCE.

The City Administrator or designee shall be charged with the administration of the sewerage system and the enforcement of the provisions of this subchapter.

(Ord. passed - -2018; Ord. 04-19, passed 10-21-2019)

§ 51.03 SEWER LATERALS, CLEANOUTS AND CONNECTIONS.

(A) All laterals from the building wall to the connection to the sewer main are the property of the owner of the connected building. All property owners whose properties are connected to a sewer main or are otherwise connected to the city's sewer system by sewer lateral shall at their own expense maintain the sewer lateral in a fully functioning condition and ensure the lateral is free of cracks, leaks, inflow or infiltration of extraneous water, root intrusion or open joints. Property owners shall ensure that laterals drain freely to the sewer main without excessive sags that collect grease and sediment.

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(B) No person, firm or corporation shall break or cut into or connect to any sewer in any street, easement or right-of-way in the city or under the control of the city without first securing a permit so to do from the city. Prior to beginning work, detailed plans describing the work to be done shall be submitted to and approved by the City Engineer or his or her designee.

(C) Each property utilizing the city's sewer system shall have a separate lateral connected to the sewer main. Notwithstanding the foregoing sentence, branched or common laterals shall be permitted only in the following instances:

(1) Where a lateral is maintained by a homeowner's association or other entity that is party to a formal, recorded lateral maintenance agreement;

(2) Where more than one building or other structure is situated upon the same lot, in which case all buildings and structures may, by permit authorized by the City Engineer, be joined in the use of one connecting sewer; provided that the connection conforms in all other respects to the provisions of this subchapter and a drawn plan of the joint connection be first submitted to and approved by the City Engineer. As a further condition of obtaining a permit, all buildings and structures shall be owned by the same person;

(3) Where, in the opinion of the City Engineer, it is impossible or impractical to connect a building on a single lot to the main sewer except in conjunction with the connection of a building or buildings on other lots, a joint connection may be allowed, provided that the connection conforms in all other respects to the provisions of this subchapter and a drawn plan of the joint connection be first submitted to and approved by the City Engineer. A permit for each individual lot covering the identification of the responsible party for maintenance and liability for maintenance and overflow damages shall be required; and

(4) Where two or more structures on separate parcels are connected to a branched or common lateral "wye", each property shall be disconnected from the branched or common lateral and a new separate lateral shall be constructed upon the transfer of title of either property by sale.

(D) A cleanout approved by the City Engineer shall be installed and maintained, at the sole expense of the property owner, on all laterals. The installation of the devices shall be required as follows:

(1) When building a new structure on property with an existing lateral, or when otherwise proposing to connect a previously unconnected structure to an existing lateral;

(2) As a condition of approval of any major building remodel project. A major building remodel project is one that is estimated by the city to cost \$50,000 or more;

(3) Prior to the close of escrow when the property is transferred via sale or other transfer of ownership by deed, instrument or writing;

(4) Whenever the city finds that a sewage spill emanating from a lateral has reached public property, including, but not limited to, a city street or the city storm drain system, or has flowed onto private property owned by another property owner; and

(5) Whenever the city finds that a sewage spill emanating from a lateral presents a threat to public health, even if it has not flowed across a property line.

(E) (1) On laterals serving properties where the outlet of a trap for a plumbing fixture is installed or located at an elevation which is less than two feet above the rim of the nearest manhole or other sewer access point uphill from the point of connection of the lateral to the public sewer in any new or existing drainage system, approved types of backflow valves may be required by the City Engineer. The installation of the devices shall be required under the same circumstances as set forth in divisions (D)(1) through (D)(5) above.

(2) Where a backflow valve is required, the valve shall be installed in the lateral at the point of lowest elevation of the ground surface along the alignment of the lateral, or at another location as is permitted by the city, providing that at any location, the elevation of the ground surface is not less than two feet below the lowest trap served by the building sewer.

(3) The backflow valve shall have cleanouts directly upstream and downstream of the valve. The cleanouts shall be connected to the lateral by means of "wye" fittings. The backflow valve shall be accessible from the surface and protected by the use of a precast access box of concrete or heavy-duty plastic approved by the City Engineer.

(4) The cleanouts shall be positioned at an elevation at least three inches above the ground in order to prevent the obstruction of the vent opening or the inflow of surface water.

(F) Any owner whose property meeting the elevation criteria of this section that has no backflow valve, or has a defective or improperly installed backflow valve, shall be responsible for all damage that results from the lack of a device, or the failure of the defective or improperly installed device to prevent the damage.

(Ord. passed - -2018; Ord. 04-19, passed 10-21-2019) Penalty, see § 51.99

§ 51.04 INSPECTIONS AND REPAIRS OF SEWER LATERALS, HOUSE TRAPS, FOOTING DRAINS AND SUMP PUMPS.

(A) (1) No foundation drains, sump pumps, roof drains, or catch basins are permitted to discharge to the wastewater system. Unpolluted water must be excluded from the water system.

(2) Property owners shall, at their own expense, inspect, and provide to the city a report of the results of an inspection of, the laterals on their property prepared by a licensed plumber or a qualified and licensed person using closed circuit television (CCTV) inspection or other inspection or test method approved by the City Engineer, and if found defective, repair the lateral, as follows:

(a) When building a new structure on property with an existing lateral, or when otherwise proposing to connect a previously unconnected structure to an existing lateral;

(b) As a condition of approval of any major building remodel project. A major building remodel project is one that is estimated by the city to cost \$50,000 or more;

(c) Prior to the close of escrow when the property is transferred via sale or other transfer of ownership by deed, instrument or writing;

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(d) Whenever the city finds that a sewage overflow emanating from a lateral has reached public property, including, but not limited to, a city street or the city storm drain system, or has flowed onto private property owned by another property owner; and

(e) Whenever the city finds that a sewage overflow emanating from a lateral presents a threat to public health, even if it has not flowed across a property line.

(3) In the absence of a specific deadline, all inspection and testing work shall be completed within 120 days of notification by the city that the inspection is required. Existing laterals shall not be used if they are found to be defective by the inspection or if they fail city mandated tests or if they were constructed of materials deemed unacceptable by the City Engineer.

(B) As part of its periodic construction and maintenance of sewer mains, the city may discover defective laterals. The city may order the property owner to conduct an inspection, repair or replacement of any lateral that the city knows or reasonably suspects to be defective.

(C) The lateral shall be considered defective if it has any of the following conditions: displaced joints, root intrusion, substantial deterioration of the lines, damaged clean-out, defective clean-out, inflow, infiltration of extraneous water or other conditions likely to substantially increase the chance for a lateral blockage, or if, within a period of one year, a lateral suffers two or more blockages resulting in overflows.

(D) Whenever defective laterals are found, the property owner, at the sole expense of the property owner, shall repair or replace the lateral. The City Engineer shall determine the extent of repair required, and more limited repair than complete replacement of the lateral may be permitted at the sole discretion of the City Engineer. The following requirements shall be met.

(1) A replaced or repaired lateral shall not be covered or backfilled until it has been inspected by a representative of the city.

(2) All new and repaired laterals must pass an air pressure test as specified by the City Engineer.

(3) All repaired or replaced laterals shall be brought into compliance with the requirements of the city code. Backflow valves may be required to be installed on laterals meeting the criteria of the city code.

(E) In the absence of a specific deadline established by the responsible authority of the city, all repair or replacement work shall be completed within 120 days, or by agreement with the city and property owner, of notification by the city that the repair or replacement is required. Repair or replacement shall consist of, but not be limited to, the sewer and water utilities, sidewalk, curb, street, grading and seeding.

(F) When a lateral is completely replaced, inspected and approved by the city, the property owner is not required to inspect the lateral upon sale of the property for ten years following the date of complete replacement of the lateral.

(G) Roots, grease or other material which have accumulated in a lateral cleaned or maintained shall be prevented from entering the sewer main during the maintenance or repair of the lateral. In the event that material is permitted to enter the main causing or contributing to the cause of a sewage spill, the property owner and/or contractor performing maintenance work, in addition to any criminal penalties imposed,

shall be held civilly liable to the city for any fines or other expenses incurred by the city resulting from the spill.

(H) The city shall have the authority to recover from a property owner, the city's expenses incurred in responding to sewer overflows on private property. In addition to any actual expenses incurred by the city resulting from an overflow, the city may impose civil administrative penalties against a property owner who fails to perform any act required in this section, which failure results in an overflow reaching public or private property other than the property owner's property, according to the following schedule:

- (1) Up to \$500 for the first violation;
- (2) Up to \$1,000 for a second violation occurring within three years after the first violation; and
- (3) Up to \$2,500 for each additional violation within a three-year period exceeding two violations.

(I) The City Council shall have the authority to establish, waive, suspend or otherwise modify any civil administrative penalty imposed by this section that exceeds the direct costs of the city upon a showing by the property owner of severe financial hardship, or upon a showing that the property owner has satisfactorily repaired the lateral to a degree sufficient to ensure avoidance of further violations.

(J) The provisions of this section shall not be construed to require or obligate the city to enter into a reimbursement agreement if, in the sole discretion of the City Council, to so enter into the agreement would not be in the best interests of the city or would be detrimental to the health, safety or welfare of the city.

(K) (1) Where buildings are to be demolished, the following actions shall be required:

(a) Determine if the service is to be abandoned or reused in the future; and

(b) Have the service (lateral) line televised, if records are not on file showing it has been televised in the past ten years. A city official shall review the video recording and records on file with the city to determine the condition of the sewer lateral (typically, the Building Official/Inspector, City Engineer or Streets Department Foreman/Supervisor).

(2) (a) If the service line is to be abandoned but is in good condition with no apparent inflow and infiltration issues (typically either PVC or cast iron pipe), remove or abandon service line to the property line. Expose the sewer lateral at the lot or curb line and seal/cap the open end to the satisfaction of the authorized city official.

(b) If the service line is to be abandoned and is in poor or failing condition and the street is in poor or failing condition, remove or abandon the service line to the main line in the street. Then remove the "wye" connection at the main line, and repair the main sewer line in the street as determined by authorized city official.

(c) If the service line is to be abandoned, and is in poor or failing condition but the street is in fair to good condition, remove or abandon the service line from the building to the property line, or as near as possible to the back of the curb, and do either of the following alternative actions with the remainder of the sewer line to the sewer main:

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1. Dig down to the lateral, exposing the line at the lot line or close to the curb and install, a city approved membrane liner through the remaining service stub. Seal both ends of the liner, and install a seal/cap on the open end at the property or curb line to the satisfaction of the authorized city official; or

2. Install a city-approved plug in the service line as near the main line pipe as possible. Fill the remaining service stub with a non-permeable grout or sealant and install a seal/cap on the open end of the pipe at the property or curb line to the satisfaction of the authorized city official.

(d) If the service line is needed in the future and the service line is in good condition (typically either PVC or cast iron pipe) regardless of the street condition, remove or abandon the service line to the property line. Dig down to the lateral, exposing the line at the lot line or close to the curb and install a cap, or seal the open end of pipe at the property or curb line to the satisfaction of the authorized city official. Provide location (ties minimum of two) to the city official.

(e) If the service line is needed in the future, but is in poor or failing condition and the street is in poor or failing condition, remove or abandon the service line from the building to the mainline. Remove the old connection at the main line and install a new wye and pipe from the main sewer line to the lot line and install a cleanout access at the property line as determined by the authorized city official.

(f) If the service line is needed in the future, but the old line is in poor or failing condition and the street is in good to fair condition, the service line shall be removed or abandon to the property line or curb. Install a sewer cleanout at the property line or near the curb. Connection to the remaining sewer service stub between the sewer cleanout and the main line sewer pipe shall either:

1. Have a city-approved membrane liner installed and have the line capped at the lot line below the cleanout; or

2. Have a city-approved plug installed in the service pipe as near the main line pipe as possible, then filled with a non permeable, but removable, grout or sealant.

(L) (1) No person shall make connection of roof downspouts, sump pump, or other sources of unpolluted waters such as storm water, ground water, roof run-off, subsurface drainage, unpolluted industrial water, or cooling water to a building sewer or building drain which is connected directly or indirectly to a public sanitary sewer.

(2) No water from any roof, surface, ground water sump pump, footing tile, swimming pool, or other natural precipitation shall be discharged into the sanitary sewer system. Dwellings and other building and structures which require, because of infiltration of water into basements, crawl spaces, and the like, a sump pump discharge. The sump pump discharge system shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer system, except as provided herein. A permanent installation shall be one which provides for year-round discharge capability to either the outside of the dwelling, building, or structure or is connected to the city storm sewer or discharges through the curb or gutter to the street. It shall consist of a rigid discharge line, without valving or quick connections for altering the path of discharge.

(M) The city shall have the power and duty of hearing and deciding requests for waivers from the applicability of the provisions of this subchapter. Where strict

enforcement would cause undue hardship because of circumstances unique to the individual property under consideration or cause a safety problem, application for a waiver shall be in writing addressed to the city. The applications shall identify the property for which the waiver is being applied, the name of the property owner and describe in detail what characteristics of the subject property create an undue hardship. The city shall have the right to inspect all property to assure their discharge water connection has been removed from the sanitary sewer. Failure to remove said discharge will result in a fine subject to city ordinance fee schedule listed above. (Ord. passed - -2018; Ord. 04-19, passed 10-21-2019)

WASTEWATER FACILITIES SYSTEM

§ 51.15 WASTEWATER FACILITIES SYSTEMS ESTABLISHED.

(A) *System established.* There is hereby established a city wastewater facilities system. The system shall include all lateral, main and intercepting sewers, wastewater pumping stations, equipment and other works and facilities, whether presently existing or hereafter acquired, as are found necessary for completion of the system in first-class operating condition adequate to collect and transmit all wastewater of the city which is discharged into the city's wastewater facilities system to the wastewater facilities of the WLSSD.

(B) *Policy declared.* It is hereby declared that the establishment and operation of the city wastewater facilities system is necessary and conducive to the public health, safety, welfare and convenience of the city and its inhabitants; that the system shall constitute and be a public utility plant and convenience from which revenues may and shall be derived; and that service to be rendered to the inhabitants, industries and property by the collection of wastewater confers direct and indirect benefits to the inhabitants, industries, properties or the city for which reasonable rates and charges may be imposed.
(Prior Code, § 401.01)

§ 51.16 DEFINITIONS.

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

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter expressed in milligrams per liter, as determined in accordance with standard laboratory procedures as set out in *Standard Methods*.

BUILDING DRAIN. The 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 a building and conveys it to the building's sewer, beginning five feet (one and one-half meters) outside the innerface of the building wall.

(1) **BUILDING DRAIN, SANITARY.** A building drain which conveys wastewater only.

(2) **BUILDING DRAIN, STORM.** A building drain which conveys stormwater or other unpolluted water drainage but no wastewater.

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

(1) **BUILDING SEWER, SANITARY.** A building sewer which conveys wastewater only.

(2) **BUILDING SEWER, STORM.** A building sewer which conveys stormwater or other unpolluted water drainage but no wastewater.

CAPITAL COST. All reasonable and necessary costs and expenses incurred by the city in planning, designing, financing and constructing wastewater facilities including, but not limited to, costs and expenses for obtaining necessary permits, licenses, approvals and grants for design and construction, architect and engineers' fees, construction costs, fees for legal and consulting services, and that portion of WLSSD capital costs charged by WLSSD to the city.

CLASSES OF USERS. The division of wastewater facility users by waste characteristics and process or discharge similarities.

(1) **DOMESTIC USER.** Those users which discharge exclusively domestic strength wastewater or wastewater which contains characteristics so similar to domestic strength wastewater as to be capable of treatment in the same manner as domestic strength wastewater.

(2) **NONDOMESTIC WASTEWATER USER.** A user which discharges wastewater other than domestic wastewater.

DEBT SERVICE. The principal and interest necessary to pay indebtedness of the city and city's share of the indebtedness to WLSSD.

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

FEDERAL CODE OF REGULATIONS. The United States government regulations so entitled.

FLOATABLE OIL. Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pre-treatment facility.

FLOW. The quantity of wastewater.

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

INDUSTRIAL COST RECOVERY. Recovery by the WLSSD from the industrial users of the WLSSD wastewater facilities of the grant amount received by the WLSSD from the United States Environmental Protection Agency allocable to the transmission and treatment of the users' wastewater in the amount as required by Public Law 92-500, being 33 U.S.C. §§ 1251 et seq.

INDUSTRIAL USER. Any nongovernmental user of the District's wastewater treatment facilities, as is identified in the Standard Industrial Classification Manual (1972), Office of Management and Budget, as amended and supplemented.

INDUSTRIAL WASTE. The solid, liquid or gaseous wastes resulting from any industrial or manufacturing processes, trade or business, or from the development, recovery or processing of natural resources.

LOADS. Quantities of wastewater characteristics such as BOD, SS, P or other constituents.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)

PERMIT. A permit system of the United States Environmental Protection Agency.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

PEAK FLOW. The maximum instantaneous rate of flow that is discharged by a user into the wastewater facility.

PERMIT. Written authorization from the city or the WLSSD to perform acts allowed or required by this subchapter.

pH.

(1) The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight, in grams, of hydrogen ions per liter of solution.

(2) Neutral water for example, has a pH value of 7 and a hydrogen ion concentration of 10^{-7} .

PHOSPHOROUS (P). Total phosphorous in wastewater as determined under standard laboratory procedures as set forth in Standard Methods.

POLLUTED WATER. Water of quality which does not meet the effluent criteria in effect or water which would cause violation of receiving water quality standards and would be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

PRETREATMENT. The treatment of wastewater prior to introduction thereof into the city or the WLSSD wastewater facilities.

PRIVATE WASTEWATER DISPOSAL SYSTEM. An arrangement of devices or structures for treating domestic or nondomestic wastewater approved for use by applicable regulations of the state and the county.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking or dispensing of foods that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (1.27 centimeters) in any dimension.

PUBLIC SEWER. Any sewer owned or operated by the city or the WLSSD.

SANITARY SEWER. A sewer which carries wastewater and to which storm, surface and ground water are not intentionally admitted.

SEWER. A pipe or conduit that carries wastewater to storm, surface or ground water.

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

STANDARD METHODS. The latest edition of *Standard Methods for the Examination of Water and Wastewater* published jointly by the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation.

SUITABLE WASTEWATER COLLECTION FACILITIES. A device(s) adequate to capture all significant wastewater developed or occurring on the premises where the facilities are located.

SUSPENDED SOLIDS (SS). Total suspended solids in wastewater as determined under standard laboratory procedures as set forth in *Standard Methods*.

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

USER CHARGE. A charge levied on the users of the wastewater facilities for the cost of operation, maintenance, including replacement and debt service.

WASTEWATER. The portion of the spent water of a community which is polluted water. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions.

(1) **DOMESTIC STRENGTH WASTEWATER.** Wastewater having an average daily suspended solids concentration of not more than 300 mg/l, an average daily BOD of not more than 300 mg/l, an average daily phosphorous concentration of not more than 15 mg/l and an average daily hexane soluble matter (grease and oil) concentration of not more than 40 mg/l.

(2) **NONDOMESTIC STRENGTH WASTEWATER.** All wastewater other than domestic strength wastewater.

WASTEWATER FACILITY. The structures, equipment and process required to collect, carry away and treat domestic and non-domestic wastes and dispose of the effluent and when preceded by the word **DISTRICT**. The wastewater facilities of the WLSSD and when preceded by the word **CITY** means the wastewater facilities of the city.

WASTEWATER TREATMENT WORKS. An arrangement of devices and structures for treating wastewater, industrial waste and sludge.

WLSSD. Western Lake Superior Sanitary District, a public corporation and political subdivision of the state established by subchapter 478, Laws of Minnesota, 1971.

WORKING STREET FOREMAN. The Working Street Foreman of the city's wastewater facilities or his or her authorized deputy, agent or representative.

(Prior Code, § 401.02) (Ord. 02-05, passed 4-4-2005)

§ 51.17 USE OF PUBLIC SEWERS REQUIRED.

(A) **Discharge unlawful.** It shall be unlawful to discharge to any natural outlet within the city or in any area under jurisdiction of the city any wastewater or other polluted waters except where suitable treatment has been provided in accordance with the provisions of this subchapter.

(B) **Septic tanks.** Except as provided in § 51.18, 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.

(C) *Connection required.* The owner of all houses, buildings or properties of any character wherein or whereon wastewater develops or occurs is hereby required at the owners expense to install suitable wastewater collection facilities therein or thereon and to connect the facilities directly with the proper public sewer in accordance with the provisions of this subchapter at the time of construction of the facilities in the case of new construction or new use or within 90 days after date of official notice to do so in the case of existing housing, buildings or properties; provided that the public sewer is within 100 feet of the property line.

(Prior Code, § 401.03) Penalty, see § 51.99

§ 51.18 PRIVATE WASTEWATER DISPOSAL.

(A) *Connection required.* Where a public sanitary sewer is not available within the distance prescribed by the provisions of § 51.17, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(B) *Permit.* Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit from the County Health Department.

(C) *County requirements.* The type, capacities, location and layout of a private wastewater disposal system shall comply with all requirements of the ordinances and regulations of the county. No system shall be permitted to discharge to any natural outlet.

(D) *Public sewer availability.* At those times as a public sewer becomes available to a property served by a private wastewater disposal system within the distance prescribed by § 51.17, a direct connection shall be made to the public sewer within 90 days in compliance with this subchapter, and any private wastewater disposal system shall be cleared of sludge and filled with suitable material.

(E) *Operation.* The owner shall operate and maintain the private wastewater disposal system in a manner which complies with applicable state and county regulations at all times and at no expense to the city.

(F) *Additional regulations.* No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the State Pollution Control Agency, the county or the WLSSD.

(Prior Code, § 401.04) Penalty, see § 51.99

§ 51.19 BUILDING SEWERS AND CONNECTIONS.

(A) *Tampering prohibited.* Except for city employees acting in the course of employment, no person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Working Street Foreman. All persons doing work shall comply with the licensing requirements for plumbers provided in this code. The permit fee for connection to the sewer system shall be established from time to time by Council resolution.

(B) *Classes of connections.*

- (1) There shall be three classes of building sewer connection permits:
- (1) For users discharging domestic strength wastewater to sanitary sewers;
 - (2) For users discharging non-domestic strength wastewater to sanitary sewers; and
 - (3) For discharge of stormwater or other unpolluted drainage to storm sewers.

(2) In all cases, the owner or his or her agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City Engineer or Working Street Foreman. A permit and inspection fee sufficient to defray the cost incidental to the processing of the connection permit, including the cost of inspection of connection for each class, shall be established by resolution of the City Council and shall be paid to the city at the time the application is filed.

(C) *Costs.* 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 from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(D) *System capacity.* No building sewer connection permit shall be issued unless the City Engineer or Working Street Foreman first determines that all city and WLSSD wastewater facilities have sufficient capacity to accommodate the flow and load to be discharged as a result of the connection.

(E) *Separate connections.* A separate and independent building sewer shall be provided for every building; except where an existing building stands at the rear of another and no separate sewer has been constructed therefor, the building may continue to be connected to the building sewer of the front building and the whole considered as one building sewer. The city shall have no obligation or responsibility for damage caused by or resulting from any single connection aforementioned.

(F) *Old sewers.* Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City Engineer or Working Street Foreman, to meet all requirements of this subchapter.

(G) *Materials.* The size, slope, alignment, materials of construction of a building sewer; the methods to be used in excavating; placing of the pipe; jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulation of the city.

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

(I) *Stormwater connection.*

(1) *Generally.* No person shall make connection of roof downspouts, sump pump or other sources of unpolluted waters such as stormwater, ground water, roof run-off, subsurface drainage, unpolluted industrial water or cooling water to a

building sewer or building drain which is connected directly or indirectly to a public sanitary sewer.

(2) *Existing dwellings.* No water from any roof, surface, ground water sump pump, footing tile, swimming pool or other natural precipitation shall be discharged into the sanitary sewer system.

(3) *Dwellings and other building and structures which require, because of infiltration of water into basements, crawl spaces and the like, a sump pump discharge.* The sump pump discharge system shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer system, except as provided herein. A permanent installation shall be one which provides for year round discharge capability to either the outside of the dwelling, building or structure or is connected to the city storm sewer or discharges through the curb or gutter to the street. It shall consist of a rigid discharge line, without valving or quick connections for altering the path of discharge.

(4) *Power and duty of hearing and deciding requests for waivers.* The City I & I Committee shall have the power and duty of hearing and deciding requests for waivers from the applicability of the provisions of this subchapter. Where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration or cause a safety problem, application for a waiver shall be in writing addressed to the City of Proctor, I & I Committee. The applications shall identify the property for which the waiver is being applied, the name of the property owner and describe in detail what characteristics of the subject property create an undue hardship. Upon approval of an application for a waiver, the property owner shall be allowed to temporarily pump directly into the sanitary sewer system between the date of November 1 and April 1. The City shall have the right to inspect all property in the spring to assure their discharge water connection has been removed from the sanitary sewer. Failure to remove the discharge will result in a fine subject to § 10.99. If a property owner feels undue hardship, appeal will be made to the City Council.

(J) *Other codes.* The connection of the building drain to the building sewer and of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. All connections shall be made gastight and watertight and verified by proper testing. The Working Street Foreman shall have authority to promulgate rules, regulations and tests as to the manner in which connections shall be made; and the rules, regulations and tests when so promulgated and filed with the Clerk-Treasurer shall be met.

(K) *Inspection.* The applicant for the building sewer connection permit shall notify the Working Street Foreman when the building sewer is ready for inspection and connection to the building drain and public sewer. The connection and setting shall be made under the supervision of the Working Street Foreman. No building sewer shall be covered until it has been inspected and tested under the supervision of the Working Street Foreman.

(L) *Excavations.* 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 Superintendent. The Council may

require that prior to remitting excavation in any public right-of-way a bond or cash, in its discretion, be deposited with the city to cover the estimated costs of repairs. (See also § 52.15 of this code or ordinances.)

(M) *Enforcement and additional charges.* The provisions of this subchapter and all standards, limitations, orders, schedules of compliance and all provisions and conditions of any permit issued by the city hereunder shall be enforced by the city by any one or any combination of the following: additional monthly surcharges; criminal prosecution; action to recover civil damages; injunctions, action to compel performance; or termination of service.

(N) *Penalties and surcharges.*

(1) Any person who willfully or negligently violates any provision of this subchapter or any provision of a permit issued by the city hereunder shall be subject to a fine subject to city administrative fine schedule.

(2) Any person who continues any violation of any provision of this subchapter or any provision of a permit issued by the city hereunder beyond the time limit provided for in the Working Street Foreman's written notice of violation shall be subject to the city administrative fine schedule.

(3) Each day in which a violation referred to in either division (N)(1) or (N)(2) above continues shall be deemed a separate violation.

(4) Any person who knowingly makes any false statement or representation in any record, report, applications, plan or other document filed with the city pursuant to this subchapter, or who falsifies, tampers with or renders inaccurate any monitoring device or method required under this subchapter or any permit issued by the city hereunder shall be guilty of a misdemeanor.

(5) Any person who continues to discharge ground water into the sanitary sewer system in violation of this subchapter will be charged an additional surcharge per month on their utility bill of an amount set by City Council from time to time by resolution. The surcharge will be imposed every month until the property at issue is in compliance with this subchapter.

(Prior Code, § 401.05) (Ord. 02-05, passed 4-4-2005; Ord. 10-05, passed 8-16-2005; Ord. 01-07, passed 3-19-2007) Penalty, see § 51.99

§ 51.20 USE OF PUBLIC SEWERS.

(A) *Discharge of unpolluted waters.* No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, ground water, roof run-off, subsurface drainage, unpolluted industrial process water or cooling water to any sanitary sewer. Stormwater run-off from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by written permission of the Working Street Foreman. All other stormwater other than that exempted under this section and all other unpolluted drainage shall be discharged to the sewers as are specifically designated as storm sewers or to a natural outlet approved by the Working Street Foreman. No person shall connect to or otherwise make use of storm sewers without first obtaining a permit as provided in § 51.19(B).

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(B) *Prohibited discharges.* No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil, oil solvent or other flammable or explosive liquid, solid or gas;
- (2) Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process or wastewater facilities, to constitute a hazard to humans or animals, to create a public nuisance, or to create any hazard in the receiving waters of the wastewater treatment works;
- (3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater treatment works; and
- (4) Solid or viscous substances in quantities or of a 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, asphalt, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, disposable diapers, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, napkins, cups, milk containers, either whole or ground by garbage grinders.

(C) *Limited discharge.* The following described substances, materials, waters or waste shall be limited in discharges to the wastewater facilities to concentrations or quantities which will not harm the wastewater facilities, will not endanger lives, limb, public property or constitute a nuisance, and which are capable of regular and ordinary treatment at the wastewater treatment works so as to permit discharge therefrom in compliance with the NPDES permit issued to WLSSD. The City Engineer and the WLSSD may set limitations different from the limitations established in the regulations below if any further limitations are necessary to meet the above objectives. In making the determination due consideration shall be given factors such as the quantity of waste in relation to flows and velocities in the sewers, materials or construction of the wastewater facility, degree of treatability of the waste in the wastewater facility and other pertinent factors. Until different limitations or restrictions on materials or characteristics are so established, no person shall discharge or cause to be discharged any of the following described waters or wastes to any sanitary sewer without the approval of the City Engineer or Working Street Foreman:

- (1) Wastewater having a temperature higher than +150°F (65°C);
- (2) Wastewater having a concentration of more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils or products of mineral oil origin;
- (3) Wastewater from industrial plants or commercial establishments containing floatable oils, fat or grease;
- (4) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers; provided that no garbage grinder with three-fourths horsepower or greater motor shall be used without the approval of the Working Street Foreman;

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(5) Any waters or wastes containing iron, chromium, copper, zinc, lead, mercury, cadmium, organic solvents, nonbiodegradables, organic chemicals and similar untreatable or toxic substances to a degree that any materials received in the composite wastewater at the wastewater treatment works exceed the limits established by the City Engineer for the materials;

(6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the City Engineer;

(7) Any radioactive wastes or isotopes of a half-life or concentration as may exceed limits established by the City Engineer in compliance with applicable state or federal regulations;

(8) Quantities of flow, concentration or both which constitute a "slug" as defined herein;

(9) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, are amenable to treatment only to a degree that the wastewater treatment works effluent cannot meet the requirements of the NPDES permit issued to the WLSSD, or are amenable to treatment only by the application of extraordinary processes; and

(10) Any water or wastes which, alone or by interaction with other water or wastes in the public sewer system, release noxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

(D) *Other harmful wastes.* If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in division (C) above and which, in the judgment of the City Engineer or the WLSSD, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, otherwise create a hazard to life, or constitute a public nuisance, the City Engineer or the WLSSD may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition having in mind the effect on wastewater facilities and the ability of the wastewater treatment works to treat the waste and achieve a discharge in compliance with the NPDES permit;

(3) Require control over the quantities and rates of discharge; and

(4) Require payment to cover added cost of handling and treating the wastes not covered by existing user charges under the provisions of this subchapter.

(E) *Interceptors.* Grease, oil and sand interceptors (sometimes termed traps), shall be provided when, in the opinion of the Working Street Foreman or the WLSSD, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in division (D)(3) above or any flammable wastes, sand, grit or other harmful ingredients; except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Working Street Foreman, City Building Official and the WLSSD and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintenance 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 dates and means of disposal which are subject to review by the Working Street Foreman, the City Building Official and the WLSSD. Any removal

and hauling of the collected materials not performed by owner personnel must be performed by currently licensed waste disposal firms.

(F) *Pretreatment.* Where pretreatment or flow equalizing facilities are provided or required for any water or wastes, plans, specifications and any other pertinent information relating thereto shall be submitted for approval of the city and the WLSSD, and no construction of the facilities shall be commenced until approval in writing is granted. Where the facilities are provided, they shall be maintained continuously in satisfactory and effective operating order by the owner at his or her expense and shall be subject to periodic inspection by the city and the WLSSD to determine that the facilities are being operated in conformance with applicable federal, state and local laws, regulations and permits. The owner shall maintain operating records and shall submit to the city and the WLSSD a monthly summary report of the character of the influent and effluent to show the performance of the pretreatment facilities and for comparison against WLSSD and city monitoring records.

(G) *Additional meters.* When required by the Working Street Foreman, the City Administrator or the WLSSD, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable structure together with the necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes by the city and the WLSSD. The structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City Engineer and the WLSSD. The structure shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

(H) *Additional information.*

(1) The Working Street Foreman, the City Administrator and the WLSSD may require a user of sewer services and a person applying for sewer service to provide information needed to determine compliance with this subchapter.

(2) These requirements may include:

- (a) Wastewater peak flow and volume over a specified time period;
- (b) Chemical analyses of wastewaters;
- (c) Information on raw materials, processes and products affecting wastewater volume and quality;
- (d) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control;
- (e) A plot plan of the user's property showing sewer and pretreatment facility or flow equalizing facility location;
- (f) Details of wastewater pretreatment or flow equalizing facility;
- (g) Details of systems to prevent and control the losses of materials through spills to the public sewer; and
- (h) Access to users' premises so that city and WLSSD personnel can carry out sampling, monitoring and measurement of users' discharge.

(I) *Notice required.* Users of the wastewater facilities shall immediately notify the Working Street Foreman, the City Administrator and the WLSSD of any unusual flows of wastes that are discharged accidentally or otherwise to the wastewater facilities.

(J) *Tests.* All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this subchapter shall be determined in accordance with the provisions set out in *Standard Methods*.

(K) *Special agreements.* No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city, the WLSSD and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city and WLSSD for treatment; provided that any agreement shall establish that charges to the user shall be in accordance with the city established user charges.

(Prior Code, § 401.06) (Ord. 02-05, passed 4-4-2005) Penalty, see § 51.99

§ 51.21 DAMAGE TO WASTEWATER FACILITIES PROHIBITED.

No person shall maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities.

(Prior Code, § 401.07) Penalty, see § 51.99

§ 51.22 POWERS AND AUTHORITY OF INSPECTORS.

(A) *Entrance on property.* The Working Street Foreman and other duly authorized employees of the city and WLSSD bearing proper credentials and identification shall be permitted to enter, in accordance with § 10.20, at all reasonable and necessary times, all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the wastewater facilities in accordance with the provisions of this subchapter.

(B) *Information.* The Working Street Foreman or other duly authorized employees of the city and the WLSSD shall be provided by users with the information concerning industrial processes as have a direct bearing on the kind and source of discharge to the wastewater facilities.

(Prior Code, § 401.08) (Ord. 02-05, passed 4-4-2005)

§ 51.23 USER CHARGE SYSTEM ESTABLISHED.

(A) *Purpose.* For the purpose of distributing among users with the city the charges made to the city by the WLSSD for the cost of the city's proportionate share of the operation, maintenance, including replacement, and debt service of WLSSD wastewater facilities for the purpose of recovering from users the cost of operation, maintenance (including replacement), debt service of city wastewater facilities and for services rendered and benefits conferred by WLSSD and city facilities, there is hereby established a wastewater facility user charge system.

(B) *Collection.* The user charges provided for in this section shall be collected by the City Administrator through a monthly billing and collection procedure to be

established in regulation form by the City Administrator, and the procedure shall be effective upon approval of the Council by resolution. The procedure shall include a late payment penalty provision and shall provide for an interest charge on the unpaid balance of the charges.

(C) *Joint liability and actions to collect.* The owner of premises which are connected to the city's wastewater facilities, the occupant thereof, and the user of the service shall be jointly and severally liable to pay for the service to the premises, and the service is furnished to the premises by the city only upon the condition that the owner of the premises, occupant and user of the service are jointly and severally liable to the city therefor. A claim for unpaid charges which have been billed to the occupant of the premises or the user of the service may be recovered against the owner, occupant or user in a civil action in any court of competent jurisdiction; and all delinquent accounts shall be certified to the Clerk- Treasurer who shall prepare an assessment roll each year providing for assessment of delinquent amounts against the respective property service pursuant to M.S. § 444.075, subd. 4, as it may be amended from time to time. The assessment roll shall be delivered to the Council for adoption on or before October 1 of each year for certification of the County Auditor for collection along with taxes. The action by the City Council and adoption of the certification is optional. Money paid to the County Auditor on the account shall belong to the city and shall be remitted to the City Treasurer by the County Auditor in the manner provided by law for the payment of other money belonging to the city. In addition to, and not in lieu of, the foregoing method of enforcing payment of the charges, the City Administrator may, according to the rules and regulations as he or she may have established and the Council shall have by resolution approved, cause the city water supply for and to any premises to be shut off until all arrears, with interest and penalties on the delinquent charges, shall be paid, together with the cost of shutting off and turning on the water.

(D) *Water usage.* Except as otherwise hereinafter provided, for the purpose of determining the charge to be rendered against premises using the city's wastewater facilities system and the WLSSD wastewater facilities, the volume of wastewater discharged into the city wastewater facilities system by the owner, lessee or occupant of any premises having any direct or indirect connection with the system shall be deemed to be and shall be based and computed upon the amount of water used on the premises.

(1) In all cases where the premises obtain water from the city's water supply, the volume of water used on any premises shall be determined by the water meter readings made by the city.

(2) In all cases whereon the water is derived in whole or in part from sources independent from the city, water used thereon which is supplied from private sources shall be measured by a water meter of a type approved by the Commission Secretary/Senior Bookkeeper/Utility Operations Coordinator to be installed by the owner, lessee or occupant of the premises at his or her own cost and subject to the supervision and inspection of the Commission Secretary/Senior Bookkeeper/Utility Operations Coordinator. User charges against the premises shall be based upon the volume of water used thereon as measured from both public and private sources. Whenever the owner, lessee or occupant fails to install the meter or where it is not practicable to measure the water consumed on any premises by a meter, the

Commission Secretary/Senior Bookkeeper/Utility Coordinator or the WLSSD shall determine, in a manner and by those methods as he or she may find practicable considering conditions and attendant circumstances in each case, the estimated volume of water from private sources which discharges into the system. The estimate shall be used in lieu of the meter volume of water from private sources to determine the user charge thereon and therefor.

(E) *Meters.* Where the owner, occupant or user of the service has been required by the Commission Secretary/Senior Bookkeeper/Utility Operations Coordinator, or the WLSSD as authorized by § 51.20 to install meters or other measuring devices that serve to demonstrate the volume of wastewater being discharged to the city's wastewater collection system and WLSSD's treatment facilities, the volume of wastewater as so measured shall be the basis upon which the charges to be made hereunder shall be determined.

(F) *WLSSD charges.* Charges made to the city by the WLSSD for the cost of the city's proportionate share of the operation, maintenance, including replacement, and debt service to the WLSSD wastewater facilities shall be distributed among the users within the city in accordance with the *WLSSD Domestic Equivalent Classification System, 1976*, a copy of which is on file in the office of the Clerk-Treasurer. Charges made to the city by the WLSSD in accordance with the industrial cost recovery requirements of Title II of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500, 33 U.S.C. §§ 1251 et seq.) shall be apportioned among industrial users within the city in accordance with the *WLSSD Industrial Cost Recovery Classification System, 1976*, a copy of which is on file in the office of the Clerk-Treasurer.

(G) *City charges.* For the purpose of recovering from users the cost of operation, maintenance (including replacement) and debt service of the city's wastewater facilities, there is established and shall be collected a user charge based upon the volume of wastewater discharged to the city's wastewater facilities system and determined as in division (D) above, provided, and in accordance with the city schedule of charges and fees.

(Prior Code, § 401.09) (Ord. 02-05, passed 4-4-2005)

STANDARDS FOR FATS, OIL AND GREASE REDUCTION

§ 51.35 AUTHORITY AND PURPOSE.

This subchapter establishes standards for the reduction of fats, oils and grease by requiring proper grease interceptor design, installation, maintenance, reporting and the enforcement of penalties for failure to comply. This subchapter will protect the health, welfare and safety of the public and the environmental by requiring provisions for the reduction of fats, oils and grease, minimizing the impact on the wastewater collection and transmission system.

(Prior Code, § 401.10) (Ord. 05-11, passed 1-17-2012)

§ 51.36 DEFINITIONS.

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

CITY. The City of Proctor, Minnesota.

CUSTOMER. Any entity which discharges wastewater to the city wastewater conveyance system.

FATS, OILS AND GREASE (FOG). Material, either liquid or solid, composed primarily of fat, oil and grease from animal, vegetable or mineral sources.

FOOD SERVICE FACILITY. Includes the following types of establishments: full service restaurants; fast food establishments; delicatessens; cafeterias; school cafeterias; church kitchen; hospitals and medical facilities; boarding houses; clubhouses; adult daycare facilities; assisted living facilities; convalescent homes; meat distributors and processing facilities; food processing facilities; grocery stores with food preparation/service areas; bakeries; caterers; and or other similar types of operations with commercial kitchen equipment.

GREASE INTERCEPTOR. A device designed to capture fats, oils and grease prior to discharge to a sanitary sewer. Also termed **GREASE TRAPS** or **GREASE RECOVERY DEVICES**.

(Prior Code, § 401.10) (Ord. 05-11, passed 1-17-2012)

§ 51.37 FATS, OIL AND GREASE REDUCTION REQUIREMENTS.

(A) *Requirements.* The installation or upgrade, and maintenance, of grease control equipment at both new and existing FOG generating facilities must meet the following requirements.

(1) Grease interceptors must be installed at all new FOG generating facilities.

(2) Existing FOG generating facilities must install an approved, properly operated and maintained grease interceptor when any of the following conditions exist:

(a) If the city determines the discharge of grease from the facility to the sewer has or is creating restrictions in the public sewer or is causing additional sewer maintenance costs; and

(b) Construction which requires issuance of a building permit from the city occurs at a food service facility.

(3) Grease interceptors must be of adequate size and efficiency and at a minimum shall be sized and installed in accordance with the Minnesota Rules Ch. 4715, as it may be amended from time to time, and all applicable municipal plumbing codes.

(4) Grease interceptors shall be installed in the waste line leading from the sinks, drains or other fixtures where grease may be introduced, and must be readily accessible for cleaning and inspection.

(5) FOG generating facilities must maintain records for all grease interceptor cleaning and maintenance activities in a format approved by the city and have the records available for inspection.

(6) FOG generating facilities must regularly clean and maintain the grease interceptor and properly dispose of captured material.

(a) Each facility must maintain records of the dates and means of disposal.

(b) Any removal and hauling of the captured materials not performed by the owner's personnel must be performed in compliance with all applicable laws and regulations by a licensed waste disposal contractor.

(B) *Variance.* The city may grant a variance or conditional waiver from the minimum requirements in division (A) above if the FOG generating facility demonstrates to the satisfaction of the municipality that any FOG discharge is negligible and will have an insignificant impact on the sewer system. At a minimum, the following conditions apply.

(1) The FOG generating facility must demonstrate that the discharge from its activities contains less than 100 mg/l of FOG.

(2) The sampling and testing to demonstrate the concentration of grease in the discharge must be conducted, at a facilities' expense, by an independent testing organization in accordance with acceptable industry standards.

(C) *Inspections.* The city will perform periodic and random FOG equipment inspections, including scheduled inspections of known problem areas. Records of the inspections shall be maintained by the city. An authorized agent of the city or employee of the city may at all reasonable hours, enter any private premises for the purpose of inspecting sewer system connections, plumbing, grease interceptors and appurtenances to assure compliance with this or other applicable laws, regulations and ordinances.

(Prior Code, § 401.10) (Ord. 05-11, passed 1-17-2012) Penalty, see § 51.99

§ 51.38 RECORD RETENTION.

Records required to be maintained under § 51.37(A) shall be retained for a minimum of seven years from the date of creation of the record. Records include written, photographic, recorded, electronic or stored data of any kind.

(Prior Code, § 401.10) (Ord. 05-11, passed 1-17-2012)

ILLICIT DISCHARGE AND CONNECTION TO THE STORM DRAINAGE SYSTEM

§ 51.50 PURPOSE.

(A) *Purpose.* The purpose of this subchapter is to provide for the health, safety and general welfare of the citizens of the city through the regulation on

non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This subchapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the national pollutant discharge elimination system (NPDES) permit process.

(B) *Objectives.* The objectives of this subchapter are:

(1) To regulate the contribution or potential contribution of pollutants to the MS4 by any user;

(2) To prohibit illicit discharges and connections to the MS4; and

(3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this subchapter.

(Ord. 04-12, passed 8-20-2012)

§ 51.51 DEFINITIONS.

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

AUTHORIZED ENFORCEMENT AGENCY. Employees or designees of the city designated to enforce this subchapter.

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

CLEAN WATER ACT. The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Any activity subject to an NPDES construction stormwater permit or any activity subject to a city land alteration permit.

GREYWATER. Liquid waste from a residence or other establishment produced by bathing laundry, culinary operations and from floor drains associated with these sources, but specifically excluding toilet waste.

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

ILLICIT CONNECTION. Any of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4 including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater and greywater to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether the drain(s) or connection(s) has been previously allowed, permitted or approved by the city; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the MS4 that has not been documented in plans, maps or equivalent records and approved by the city.

ILLICIT DISCHARGE. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in § 51.55(B).

INDUSTRIAL ACTIVITIES. Activities subject to NPDES industrial permits as defined in 40 C.F.R. § 122.26(b)(14).

MUNICIPAL SEPARATE STORMWATER SEWER SYSTEM (MS4). Includes municipally owned facilities where stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. A permit issued by the U.S. Environmental Protection Agency (or the state under authority delegated pursuant to 33 U.S.C. § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual, group or general area-wide basis.

NON-STORMWATER DISCHARGE. Any discharge to the MS4 that is not composed entirely of stormwater.

PERSON. Any individual, association, organization, partnership, limited liability company, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT. Anything which causes or contributes to pollution. **POLLUTANTS** may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; sediment resulting from soil erosion; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land or portion of land whether improved or unimproved including adjacent sidewalks and parking areas.

SEWAGE. Waste and wastewater discharged from residences, business buildings, institutions and industrial establishments.

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

STORMWATER. Any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation, and resulting from precipitation.

STORMWATER POLLUTION PREVENTION PLAN or SWPPP. A document which describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or

reduce pollutant discharges to stormwater, the MS4 and/or receiving waters to the maximum extent practicable.

WASTEWATER. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof, as defined in M.S. § 115.01, subd. 22, as it may be amended from time to time.

(Ord. 04-12, passed 8-20-2012)

§ 51.52 APPLICABILITY.

This subchapter shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by the city.

(Ord. 04-12, passed 8-20-2012)

§ 51.53 RESPONSIBILITY FOR ADMINISTRATION.

The city shall administer, implement and enforce the provisions of this subchapter. Any powers granted or duties imposed upon the city may be delegated to persons or entities acting in the beneficial interest of or in the employ of the city.

(Ord. 04-12, passed 8-20-2012)

§ 51.54 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this subchapter are minimum standards; therefore this subchapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. 04-12, passed 8-20-2012)

§ 51.55 PROHIBITION OF ILLICIT DISCHARGES.

(A) No person shall discharge or cause to be discharged into the MS4 anything other than stormwater, including, but not limited to, pollutants or waters containing any pollutants that may impede the natural flow of stormwater or the functionality of the MS4 or that cause or contribute to a violation of applicable water quality standards.

(B) The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited except as follows:

(1) Discharges related to water line flushing or water from other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active ground water dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), firefighting activities and any other water source not containing pollutants;

(2) Discharges specified in writing by the city as being necessary to protect public health and safety;

(3) Dye testing is an allowable discharge, but required a verbal notification to the city prior to the time of the test and the dye used must be non-hazardous; and

(4) The prohibitions contained in this subchapter shall not apply to any non-stormwater discharge permitted under a city permit or an NPDES permit, specific written waiver, or waste discharge order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency or the State Pollution Control Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for the discharge to the MS4.

(Ord. 04-12, passed 8-20-2012) Penalty, see § 51.99

§ 51.56 PROHIBITION OF ILLICIT CONNECTIONS.

(A) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(B) This prohibition expressly included, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(C) A person is considered to be in violation of this section if the person connects a line conveying sewage, process wastewater or greywater to the MS4, or allows a connection to continue.

(D) Improper connections in violation of this subchapter must be disconnected and redirected, if necessary, to an approved on-site wastewater management system or the sanitary sewer system upon approval of the city.

(E) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the city requiring that the locating be completed. The notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other be identified. Results of these investigations are to be documented and provided to the city.

(Ord. 04-12, passed 8-20-2012) Penalty, see § 51.99

§ 51.57 SUSPENSION OF MS4 ACCESS.

(A) *Suspension due to illicit discharges in emergency situations.* The city may, without prior notice, suspend MS4 discharge access to a person when the suspension is necessary to stop and actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health and welfare of persons, or to the MS4 or waters of the state. If the violator fails to comply with a suspension order issued in an emergency, the city may take steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, or to minimize danger to persons.

(B) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this subchapter may have his, her or its access terminated if the termination would abate or reduce an illicit discharge. The city will notify a violator of the proposed termination of its MS4 access. The violator may petition the city for a reconsideration and hearing.

(C) *Offense.* A person commits an offense if the person reinstates MS4 access to a premises terminated pursuant to this subchapter, without the prior approval of the city.

(Ord. 04-12, passed 8-20-2012) Penalty, see § 51.99

**§ 51.58 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES;
SUBMISSION OF NOTICE OF COVERAGE/AUTHORIZATION TO THE CITY.**

(A) Any person subject to an industrial or construction activity NPDES stormwater discharge permit or city land alteration permit shall comply with all provisions of the permit. Proof of compliance with the permit may be required in a form acceptable to the city prior to allowing discharges to the MS4.

(B) The operator of a facility, including construction sites, required to have an NPDES permit to discharge stormwater associated with industrial or construction activity shall submit a copy of the coverage notification or notification of permit authorization to the city.

(C) The copy of the coverage notification or notification of permit authorization may be delivered to the city either in person or by mailing it to:

City of Proctor 100 Pionk Drive Proctor, MN 55810

(D) A person commits an offense if the person operates a facility that is discharging stormwater associated with industrial or construction activity without having submitted a copy of the coverage notification or notification of permit authorization to do so to the city.

(Ord. 04-12, passed 8-20-2012) Penalty, see § 51.99

§ 51.59 MONITORING OF DISCHARGES.

(A) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(B) *Access to facilities.*

(1) The city shall be permitted to enter and inspect facilities subject to regulation under this subchapter as often as may be necessary to determine compliance with this subchapter, in accordance with § 10.20. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangement to allow access to representatives of the city.

(2) Facility operators shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the condition of an NPDES permit, city land alteration permit or any permit issued by the city pursuant to the section to discharge stormwater, and the performance of any additional duties as defined by city, state and federal law.

(3) The city shall have the right to set up, on any permitted facility, the devices as are necessary, in the opinion of the city, to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The city has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at the discharger's expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city and shall not be replaced. The costs of clearing the access shall be borne by the operator.

(6) Unreasonable delays in allowing the city access to a facility is a violation of a stormwater discharge permit and of the subchapter. A person who is the operator of a facility with a NPDES permit or any city land alteration permit or any permit issued by the city pursuant to this subchapter to discharge stormwater associated with industrial activity commits an offense if the person denies the city reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by the subchapter.

(7) If the city has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this subchapter or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. 04-12, passed 8-20-2012)

§ 51.60 REQUIREMENT TO PREVENT, CONTROL AND REDUCE POLLUTANTS IN STORMWATER BY THE USE OF BEST MANAGEMENT PRACTICES (BMPs).

The owner or operator of a commercial or industrial establishment shall provide, at his, her or its own expense, reasonable protection from accidental discharge of prohibited material or other wastes into the MS4 system or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a SWPP as necessary for compliance with requirements of the NPDES permit.

(Ord. 04-12, passed 8-20-2012)

§ 51.61 WATERCOURSE PROTECTION.

(A) Every person owning property through which a watercourse passes, or the person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse.

(B) In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that the structures will not become a hazard to the use, function or physical integrity of the watercourse.

(Ord. 04-12, passed 8-20-2012)

§ 51.62 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the MS4 or waters of the state, the person shall take all necessary steps to ensure the discovery, containment and cleanup or the release. In the event of a release of hazardous material, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous material, the person shall notify the city in person or by phone call or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addresses and mailed to the city within two business days of the phone notice. If the discharge of prohibited material emanates from a commercial or industrial establishment, the owner or operator of the establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. The records shall be retained for at least three years.

(Ord. 04-12, passed 8-20-2012)

§ 51.63 ENFORCEMENT.

(A) *Violation.* It shall be unlawful for any person to violate any provisions or fail to comply with any of the requirements of this subchapter. Any person who has violated or continues to violate the provisions of this subchapter, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, the city is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The city is authorized to seek costs of the abatement as outlined in division (D) below.

(B) *Notice of warning.* When the city finds that any person has violated, or continues to violate, any provisions of this subchapter, or any order issued hereunder, the city may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the warning notice. Nothing in this section shall limit the authority of the city to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

(C) *Notice of violation.*

(1) Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this subchapter, the city may order compliance by written notice of violation to the responsible person.

(2) The notice may require without limitation:

- (a) The performance of monitoring, analyses and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices or operations shall

cease and desist;

(d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and

(e) The implementation of source control or treatment BMPs.

(D) *Abatement.* If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which the remediation or restoration must be completed. The notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(E) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal the determination of the city. The notice of appeal must be received within 15 days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his or her designee shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the municipal authority or his or her designee shall be final.

(F) *Enforcement measures.* If the violation has not been corrected pursuant to the requirement set forth in the notice of violation, then representatives of the city may take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purpose set forth above. The remedies available to the city shall include:

- (1) Criminal prosecution;
- (2) Injunction relief pursuant to division (H) below;
- (3) Collection of administrative and remediation costs, including attorney fees, court costs, sampling and monitoring costs and other expenses associated with enforcement of this subchapter;
- (4) Imposition of costs abatement pursuant to division (G) below; and
- (5) Enforcing the provisions of division (I) below.

(G) *Cost of abatement of the violation.* After abatement of the violation, the owner of the property will be notified of the cost of abatement, including attorney fees and administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten calendar days with the Clerk-Treasurer. If the amount due is not paid by the deadline set forth by the decision of the City Council, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(H) *Injunction relief.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this subchapter. If a person has violated or continues to violate the provisions of this subchapter, the city may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(I) *Compensatory action.* In lieu of enforcement proceedings, penalties and remedies authorized by this subchapter, the city may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup and the like.

(J) *Violations deemed a public nuisance.* In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this subchapter is a threat to public health, safety and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of the nuisance may be taken.

(K) *Remedies not exclusive.* The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies.

(Ord. 04-12, passed 8-20-2012) Penalty, see § 51.99

§ 51.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) (1) Any person found in violation of any provision of §§ 51.35 through 51.38 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by penalty established in state law for a misdemeanor as may be amended from time to time. Any person convicted of a violation of §§ 51.35 through 51.38 shall be required to pay the reasonable costs of prosecution.

(2) The city may in its discretion, seek any civil remedies available to it including remedies at law, in equity or other relief. In the event that civil remedy is pursued, the city may seek reimbursement of any and all costs, disbursements, witness or other fees, as well as reasonable attorney fees expended by the city in order to enforce §§ 51.35 through 51.38.

(3) Each right or remedy accruing to the city under §§ 51.35 through 51.38 or at law is separate and distinct and may, at the city's discretion, be exercised independently or simultaneously with any other right or remedy.

(Prior Code, § 401.10) (Ord. 10-05, passed 8-16-2005; Ord. 05-11, passed 1-17-2012)

CHAPTER 52: UTILITY SERVICE AND PROPERTY IMPROVEMENT

Section

General Provisions

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GENERAL PROVISIONS

§ 52.01 UTILITY CONNECTIONS AND DISCONNECTIONS.

(A) *Connection required.*

(1) Owners of lands and premises abutting on any road, street, avenue or highway within the city in which a newly constructed or substantially reconstructed municipal waterline or sewer line is located, whereon any structure is equipped to receive water or discharge wastes is situated, shall make connection with the waterline or sewer line as soon as practicable.

(2) This section shall not apply to lands and premises already connected to municipal water and/or sewer lines.

(3) Lands and premises abutting on any road, street, avenue or highway within the city which are adjacent to but not connected with existing municipal water and/or sewer lines shall be connected within 180 days of any transfer of the title to the lands and premises. The term **TRANSFER OF TITLE** includes any transfer of title by deed, contract, option or assignment of the title to the lands and premises.

(4) For all required connections to city sewer or PUC water lines, the fees for the connections, to be paid by the connecting party to the city or PUC, shall be as follows.

(a) *Sewer connection fee.*

1. See city schedule of charges and fees; and
2. For all new connections or projects not involving special assessment for the connections.

(b) *Water connection fee.*

1. See city schedule of charges and fees, plus plumbing inspection fee and excavation fee; and
2. For all new connections or projects not involving special assessment for the connections.

(B) *Connections to be approved.* Plans for connections to be made pursuant to this subchapter shall be required to be approved by the City Building Official and/or City Engineer and Working Street Foreman prior to the connection. All connections so approved and made shall meet applicable code standards.

(C) *Disconnection and capping required.*

(1) In the event that any structure serviced by any waterline or sewer line which is connected to the city's system is removed or demolished, the owner of the land upon which the structure was located shall disconnect from the city's system and cap them off in a manner approved by the Working Street Foreman and City Administrator or Deputy Clerk-Treasurer prior to connection.

(2) (a) If the owner of the land in question fails to adhere to the provisions of the subdivision, the City Administrator shall, upon 24 hours' notice, order the work to be done by the public utilities and/or the city, and the costs associated therewith shall be assessed against the parcel involved.

(b) Where the City Administrator deems an emergency to exist, the work may be done immediately and without prior notice.

(Prior Code, § 303.01) (Ord. 07-04, passed 2-22-2005; Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

STREET EXCAVATION AND OBSTRUCTION

§ 52.15 PERMIT AND PERMIT FEE REQUIRED.

No person shall make any excavation in any street, alley, highway, sidewalk or other public grounds or place any obstruction therein or place any scaffold, obstruction, equipment or materials of any kind in, upon or above any public sidewalk or immediately adjacent thereto without having first obtained a permit from the Clerk-Treasurer, approved by the Working Street Foreman and City Administrator or Deputy Clerk-Treasurer. Upon approval of the permit by the city, Working Street Foreman and City Administrator or Deputy Clerk-Treasurer, each applicant shall pay a fee to be determined as follows: see the city schedule of charges and fees.
(Prior Code, § 303.02) (Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

§ 52.16 CITY EMPLOYEES.

The provisions of §§ 52.01 and 52.22 shall apply to excavations and obstructions by city employees, except that no permit fee shall be charged and no bond or insurance shall be required. All work done by city employees shall comply with the same standards for safeguarding the site and for restoration of the surface as apply to other excavations.
(Prior Code, § 303.03)

§ 52.17 SEWER, WATER AND GAS WORK.

(A) When application is made for a permit authorizing excavation for the purpose of making a connection to the sewer, gas or water mains, the Clerk-Treasurer shall not issue the permit without the written consent of the Working Street Foreman and City Administrator or Deputy Clerk-Treasurer or affected city department.

(B) All work done and materials used in making the connection shall conform to all applicable city ordinances and state laws.
(Prior Code, § 303.05) (Ord. 02-05, passed 4-4-2005)

§ 52.18 POSTING.

(A) Each permit shall be numbered and shall state the date of issuance, the date of expiration, the name of the person to whom it is issued, and the location for which it is issued.

(B) Each permit shall be posted at the site of the excavation or obstruction.
(Prior Code, § 303.06)

§ 52.19 BOND AND INSURANCE.

(A) *Generally.*

(1) No permit required by this subchapter shall be issued by the Clerk-Treasurer unless the applicant therefor shall first file with the Clerk-Treasurer a corporate surety bond of an insurance company duly authorized by the laws of the state to transact business as a surety, in the sum of an amount set by City Council from time to time by resolution.

(2) In addition to the bond, the applicant shall also file with the Clerk-Treasurer a certificate of an insurance company duly authorized by the laws of the state to transact business as an insurance company duly certifying to the fact that the applicant is insured by the company for the purpose and in the amounts of an amount set by City Council from time to time by resolution for personal injuries and property damage.

(3) Every corporate surety bond shall be conditioned as follows.

(a) The applicant guarantees to indemnify and save the city harmless from any and all claims, demands, damages or causes of action of any kind whatsoever arising or to arise out of the doing of the work or the thing authorized by the permit issued to the applicant, to restore the street, avenue, alley, highway or public ground to the condition it was in prior to the making of the excavation or the obstruction, and that any work done under the permit, including the installation of any sewer, gas or water connections made by the applicant will be done in accordance with all the applicable provisions of this subchapter. The street restoration shall be by compaction to 90% of original value with replacement of overlay. The project shall be inspected and approved by the Street Foreman before being accepted by the city.

(b) If the applicant's contractor has on file with the Clerk-Treasurer the corporate surety bond and certificate of insurance required by this section, it shall not be necessary for the applicant to file any bond or certificate of insurance.

(B) *Exceptions.* A public service corporation occupying the streets or public grounds of the city and operating its business in the city either under a franchise granted by the city or under a certificate of necessity issued by the State Public Service Commission shall not be required to file a bond or certificate of insurance.

(Prior Code, § 303.07)

§ 52.20 RELEASE OF BOND.

Any corporate surety bond filed under the terms of this subchapter may be released in writing by the Clerk-Treasurer only if the work done under the permit shall have been completed to the satisfaction of the Street Foreman and only after all fees have been paid.

(Prior Code, § 303.08)

§ 52.21 SAFETY REQUIREMENTS.

No person to whom a permit has been issued shall commence work under the permit without first putting in place a suitable guard or fence about the site sufficient to

protect persons or animals from falling into or upon any excavation or obstruction or from being struck by falling objects. During the hours between sunset and sunrise, sufficient lights, flares or other similar devices shall be placed on all sides of the site to warn the general public of the presence of the excavation or obstruction.
(Prior Code, § 303.09) Penalty, see § 10.99

§ 52.22 RESTORATION.

Where an excavation has been made under permit, the permittee shall not commence restoration without first notifying the Clerk-Treasurer. The Clerk-Treasurer shall notify the Street Foreman who shall be present to observe and report upon the manner of restoration of the street. Restoration of a street shall be by compaction to 90% of original value with replacement of overlap. The completed project shall be inspected by the Street Foreman to determine if the requirements of the ordinances have been met.
(Prior Code, § 303.10)

§ 52.23 EMERGENCIES.

(A) When an emergency exists caused by the bursting of a pipe or main, the falling of electrical wires, or by other accident so that immediate excavation or obstruction of a street is necessary to safeguard the public health or safety, a contractor or any other person responsible for the maintenance of any public service utility within the streets or alleys of the city may immediately perform the necessary work without first obtaining a permit.

(B) In this case, the person performing the work shall obtain a permit as soon as practicable thereafter. All other requirements of this subchapter shall apply to the emergency excavations.
(Prior Code, § 303.11)

§ 52.24 UNLAWFUL CONNECTION OF UTILITIES.

(A) No person shall connect or tap into any cable television, water, gas, sewer or electric line controlled, owned, operated, leased, licensed, managed or maintained by the city, the City Public Utility Commission or any authorized agents thereof unless prior permission or authorization of the connection has been requested and granted by the applicable utility, the city or a designated agent thereof.

(B) Prior to preliminary approval of any connection, the appropriate utility shall investigate and inspect the proposed connection site and grant or deny approval of the work. Upon completion of an approved connection, the applicable utility or its agent shall re-inspect the connection and grant or deny final approval of the connection.

(C) Connections made in violation of this section shall constitute a misdemeanor. In addition to any criminal penalty the court may impose, persons

convicted of violating the provisions of this subchapter may be subject to an order of the court requiring a reimbursement of the value of any utility usage consumed, wasted or sold as a direct result of the illegal connection. The reimbursement shall be paid directly to the affected utility.

(Prior Code, § 303.12) Penalty, see § 10.99

§ 52.25 INSTALLATION OF CULVERTS.

In all areas adjacent to any street, road, alley or avenue located within the city which require, in the discretion of the Working Street Foreman, the installation of culverts, plans for all installations shall require the prior approval of the Working Street Foreman. This approval process shall also be required for all culverts to be installed by private parties on their own initiative. The Working Street Foreman shall require that all culvert installations, to include private installations, meet current County Highway Department specifications as published by that Department.

(Prior Code, § 303.13) (Ord. 02-05, passed 4-4-2005)

§ 52.26 DISRUPTION OF CURBS AND SIDEWALKS.

(A) No person shall cut, disrupt, remove, cover or otherwise damage any curbs or sidewalks located within the city which lie within any public easement without prior approval of the Working Street Foreman of the city.

(B) Prior to any work being done which affects any curb or sidewalk, the Working Street Foreman shall be provided by the landowner the plans and specifications therefor for the city's review and approval.

(C) Any cutting, disruption, removal, covering or other damage done to any curb or sidewalk without the above-stated approval shall be remedied by the landowner. If the landowner does not remedy the damage within ten days of the City Administrator's order to do so, the city may restore the curb and/or sidewalk to its original condition and assess the landowner for the costs of the restoration.

(Prior Code, § 303.14) (Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

CHAPTER 53: UTILITY COMMISSION

Section

53.01	Commission created
53.02	Building
53.03	Water and Light Fund
53.04	Clerk-Treasurer may be Secretary

§ 53.01 COMMISSION CREATED.

(A) There is hereby continued a Public Utilities Commission pursuant to M.S. §§ 412.321 through 412.391 which will have all the powers and duties set forth therein as supplemented and amended, together with all of the powers hereinafter granted. The Commission shall have jurisdiction over the city's water and light and power system.

(B) All Commissioners of the Commission shall be residential customers of the Proctor Utilities Commission (PUC), receiving their water and/or electrical utility service from the PUC. In the event that a Commissioner of the PUC discontinues service from the PUC or leaves the territory served by the PUC, he or she shall immediately resign from the PUC, and the Council shall appoint a successor.
(Prior Code, § 402.01)

§ 53.02 BUILDING.

The Commission shall have no power or authority over any buildings owned, leased or operated by the city and shall have no power to dispose of, rent, lease or let the buildings, except as the same are acquired or used primarily and exclusively for the purposes and in the operation of the electrical and water distribution systems in the city or other areas served.
(Prior Code, § 402.02)

§ 53.03 WATER AND LIGHT FUND.

There are hereby created two funds; a Water Fund and a Power and Light Fund. The Funds shall be separate from each other and all other funds of the city or the Commission. It shall be the duty of the Commission and, it is hereby empowered, to collect all water, light, heat, power and rent charges from patrons of the systems, including the city, and pay the same into the designated Funds. The Commission shall have the exclusive control of the Funds and of all collections made by the Commission except as agreed between the Commission and the Council. It shall be the duty of the Commission to fully, absolutely and exclusively control all the operation and management of the water, light and power plants and systems in the city and adjacent territory and to pay the operation thereof out of the funds.
(Prior Code, § 402.03)

§ 53.04 CLERK-TREASURER MAY BE SECRETARY.

The Clerk-Treasurer may, at the option of the Commission and, in that event, shall receive for his or her services as Secretary, compensation as the Commission may determine.
(Prior Code, § 402.04)

CHAPTER 54: UTILITIES GENERALLY

Section

Utility Billing

- 54.01 Owners of premises to be responsible for charges
- 54.02 Misdemeanor to rent premises where service is disconnected
- 54.03 Tenant's right to pay bill and deduct charges from rent
- 54.04 All charges to be paid before water, electric or sewer supply is re-established
- 54.05 Landlord shut-off notice provisions
- 54.06 Utility service repairs

Utility Service Deposit and Liens

- 54.20 Deposit requirements; service application
- 54.21 Deposit required; lien exception
- 54.22 Refund of deposits

Utility Connection Inspections

- 54.35 Inspections mandated by service connection
- 54.36 Failure to allow access

UTILITY BILLING

§ 54.01 OWNERS OF PREMISES TO BE RESPONSIBLE FOR CHARGES.

(A) The owner or his or her authorized agent of premises where water, sewer and/or electrical service is delivered is required to be a responsible party (either as customer or guarantor) for payment for those services, unless the Utility Commission or, in the case of sewer, the city, in writing, waives this requirement. An applicant or customer, shall provide the applicable provider, at its request, with information enabling it to determine the ownership status of premises to which water, sewer or electric service is proposed to be or is being provided. This division (A) is effective as to all premises leased after January 1, 1986; provided that this division (A) shall not be effective with respect to premises which are subject to a lease on January 1, 1986, which has a term greater than one month until the time of the first renewal of the lease after January 1, 1986.

(B) (1) Where the provider provides service to a residence with an address which is different than that of the person paying the charges for service to the residence or where the provider has other reason to know that a landlord has contracted to be responsible for the utility account at a residence occupied by renters and where the provider proposes to discontinue service at a residence for non-payment of outstanding charges or for any other reason, then the provider shall post, on or near the front and rear entrances of the premises where service is rendered a notice of intent to

discontinue service. The notice shall be posted not less than 31 calendar days prior to the actual discontinuance of the service. Copies of the notice shall also be sent by first class mail to the occupants of the address where service is rendered and to the customer at his or her billing address.

(2) The notice to the tenants shall contain the following information:

(a) The date of posting;

(b) The proposed date of termination;

(c) The reason for the proposed termination;

(d) The total amount of arrearages charged to the account for the unit or units subject to termination and the current bill for utility consumption over the past billing period; and

(e) The right of the tenant(s) to avoid termination by paying the current charges as set forth below.

(C) If the reason for the proposed termination of service is failure of the landlord to pay outstanding charges on his or her account, then the tenant shall be entitled during the 31-day notice period provided by division (B) above to avoid termination of services by following the procedures set forth below.

(D) No person shall deface or remove any notice posted by the provider pursuant to this section during the 31-day period or until the tenant has made arrangements to avoid termination following the applicable procedures as set forth § 54.04.

(Prior Code, § 403) Penalty, see § 10.99

§ 54.02 MISDEMEANOR TO RENT PREMISES WHERE SERVICE IS DISCONNECTED.

(A) No person shall let to another for occupancy any dwelling or dwelling unit within the city for the purpose of living therein to which water, electric or sewer service has been discontinued by the Utility Commission or the city for the failure of the owner or any other person to pay outstanding charges on his or her account unless one of the following conditions is met:

(1) The landlord provides the prospective tenant with written confirmation from the applicable service provider that arrangements have been made to reconnect utility service; or

(2) The landlord and prospective tenant enter into a written agreement with the applicable service provider that the tenant may pay all or part of the rent to the provider in consideration for reconnection of utility service.

(B) No landlord, agent of the landlord or person acting under a landlord's direction or control may disconnect or cause the disconnection of water, electric or sewer services to the tenant, without the tenant's consent, unless the interruption is for the purpose of repairing or correcting faulty or defective equipment or protecting the health and safety of the occupants of the premises involved. If the disconnection occurs, the landlord shall be obligated to reinstate the service as soon as possible.

(C) If residential premises are rented in violation of division (A) above, the tenant may reinstate service by paying to the provider an amount equal to the estimated

utility charges for the remainder of the period for which the tenant has paid rent, not to exceed 31 days. The provider shall bill the landlord for the reconnection charges.
(Prior Code, § 403) Penalty, see § 10.99

§ 54.03 TENANT'S RIGHT TO PAY BILL AND DEDUCT CHARGES FROM RENT.

(A) Where an applicable provider has given notice that it will terminate utility service or where the provider has terminated service because of the failure of the owner to pay outstanding charges on his or her account, a tenant may notify the landlord in writing of his or her intent to follow the procedures set forth in this section. During the time period from October 15 to April 15 if utility service has been disconnected or is threatened with disconnection within 48 hours, the tenant may notify the landlord, either orally or in writing, of the situation and of his or her intent to pay the bill within a period as is reasonable under the circumstances. If the situation is not remedied, the tenant may pay the outstanding bill or portion thereof and, upon submitting to the landlord receipts, deduct the cost from the rent.

(B) If the provider receives payment from a tenant under this section equivalent to the current bill, it shall not terminate service for the following month, or if service has already been terminated, it shall reconnect service for at least one month.

(C) If the tenant desires to continue paying service charges for the landlord beyond the one month period authorized in division (B) above, the provider may require the tenant to make payments in addition to the current bill in following months in an amount equal to one-third of the past due bill of the landlord; provided that the tenant shall not be required to pay a total amount in any month greater than twice the average bill nor an amount in excess of the amount of the tenant's monthly rent. The provider may require the tenant to furnish rent receipts, a written lease or other proof in writing of the amount of the tenant's monthly rent. All agreements to make payments to the provider in lieu of rent shall be in writing and signed by the tenant and a representative of the Department. A copy of the agreement shall be furnished to the tenant.

(D) When a tenant elects to pay for water, sewer or electric service in accordance with this section, the provider shall notify the tenant's landlord of the election. This notice shall advise the landlord that the tenants have the right to deduct utility charges actually paid from future rental payments and that no landlord can retaliate against tenants (i.e., eviction or rent increase without other good cause) for exercise of their rights under this section.

(E) For purposes of this section, **CURRENT BILL** means the bill for utility consumption at the premises during the previous billing period and **AVERAGE BILL** means the bill for a year's consumption at the premises divided by the number of billing periods a year.

(F) The provider shall not require the tenant to place the account in his or her own name as a condition to continuing the utility service under this section. The provider shall advise any requesting tenant, or the tenant's representative, of the amount owing on the utility account for rental property for which the provider has given notice of intent to terminate.

(G) If the tenant fails to make payments under this section, the Department shall give the tenant five days' notice by certified mail of its intent to terminate utility service before terminating the service.
(Prior Code, § 403)

§ 54.04 ALL CHARGES TO BE PAID BEFORE WATER, ELECTRIC OR SEWER SUPPLY IS RE-ESTABLISHED.

After the supply of water, electric or sewer to any applicant or to any premises has been shut off on account of non-payment of charges or for violation of the provisions of this subchapter or Department rules, neither water, electric, nor sewer will be again supplied to the non-paying customer until all past charges incurred by the customers are paid in full. In lieu thereof, the applicable provider may enter into an agreement with the customer for payment of the outstanding billing over time to carry interest equal to the judgment rate. Failure of the customer to make payments as agreed will subject the customer to the shut-off regulations of the applicable provider.
(Prior Code, § 403)

§ 54.05 LANDLORD SHUT-OFF NOTICE PROVISIONS.

Landlords renting residential dwelling units to the public within the service territory of the Proctor Utility Commission (for the city in case of sewer) shall be subject to the following notice requirements and provisions.

(A) Landlords owning, controlling, supervising or managing the rental units shall sign an agreement with the provider to ensure the provisions of this section apply.

(B) The service agreement form to be signed by the service provider shall contain sufficient information for purposes of locating and notifying each landlord signing the agreements.

(C) Pursuant to the landlord's signing of the required agreement, anytime during the term of the agreement the provider listed by the landlord in the agreement has actual knowledge of a tenant quitting or vacating any unit therein, the provider shall attempt to give telephone notice of the quitting or vacating to the landlord.

(D) After two attempts to notify the landlord of the quitting or vacating of a tenant, the provider may discontinue efforts to notify the landlord and discontinue utility service to the unit rented by the quitting or vacating tenant; provided, the provider shall not discontinue service so long as the landlord agrees in writing to pay for service to the unit which is being quit or vacated.

(E) If any time the landlord fails to continue to pay for the service provided under division (D) above, the provider shall be empowered to discontinue service to the rental premises in question.
(Prior Code, § 403)

§ 54.06 UTILITY SERVICE REPAIRS.

Pursuant to § 54.01(B), if a tenant elects to continue to receive service where the providing utility has indicated it will discontinue service for reasons other than non-payment of service billings (such as defective or hazardous service entrance to the dwelling unit) the tenant may elect to repair or remedy the situation leading to the discontinuance and deduct the cost thereof as allowed under § 54.03.
(Prior Code, § 403)

UTILITY SERVICE DEPOSIT AND LIENS

§ 54.20 DEPOSIT REQUIREMENTS; SERVICE APPLICATION.

(A) Every person, partnership, corporation or other entity desiring to purchase electric power, water and/or services from the city public utility and/or the city shall be required to fill out an application for service with the appropriate provider prior to service being instituted.

(B) For purposes of this subchapter, the provider of electric and water service is the city public utility. The provider of sewer service is the city.

(C) The application shall be required regardless of whether the party seeking service is a tenant, fee owner, subtenant or contract vendee relative to the property desired to be serviced.

(D) A new application shall be required of any party moving or changing physical locations within the service area of the applicable provider regardless of the past history of the party.

(Prior Code, § 404.01)

§ 54.21 DEPOSIT REQUIRED; LIEN EXCEPTION.

(A) Each party completing an application for utility service shall post a deposit equal to three month's average of the previous 12 months' billings for the property to be serviced as computed and billed by the applicable provider.

(B) If service has been discontinued prior to the application in question, the provider shall utilize the most recent previous 12 months of service listed in the billings for that particular location or property.

(1) *Fee owner exception.* Provided, that if a party desiring service is the fee owner of the property to be serviced, the fee owner may sign an agreement with the provider allowing the provider to place of record a lien against the real property serviced for any past-due utility billings. In those instances where a lien agreement is signed by the fee owner of the property, the applicable provider shall except and waive the requirement of posting a deposit.

(2) *Non-fee owners exception.* A party applying for service that is not the fee owner of the property to be serviced may obtain a waiver and exception to the above-described deposit requirement by obtaining the fee owner's written agreement to a lien for past-due utility service as set forth in division (B)(1) above. To obtain a waiver

and exception, the fee owner must sign the lien agreement authorizing the lien at the time service is applied for.

(3) *Prior customer exceptions.* A party applying for service that is the fee owner of the property to be serviced who has had an account established with the city public utilities prior to his or her present application for service and who meets the following requirements shall not have to post the deposit required by this division (B) or sign a lien agreement:

(a) The applicant has had an account with the city public utilities within the past five years;

(b) The applicant's prior account covered at least two complete years of service; and

(c) The applicant's prior account with the city public utilities had not been subject to involuntary discontinuance, termination, an electric service limiter or had not been past due more than one time during any two-year period of service previously provided by the city public utilities.

(Prior Code, § 404.01)

§ 54.22 REFUND OF DEPOSITS.

(A) *Twenty-four months.* Any party posting a deposit as required by § 54.21 shall be entitled to a full refund of the deposit with interest as allowed by law after 24 months service to the party. The refund shall be calculated by the appropriate provider and shall be either credited to the involved customer's bill until exhausted or, in the case of a customer who is not continuing service, may be refunded directly to the customer; provided, that no refund shall be credited or allowed to any party receiving service hereunder if the party's account covered by the deposit has been past due more than one time during the 24-month service period.

(B) *Termination of customer's interest.*

(1) At any time upon customer request the applicable utility shall terminate any and all utility service to the customer and shall refund any deposit posted and interest as allowed by law.

(2) Additionally, in the event the customer being served terminates his or her interest in the property being provided utility service through sale, foreclosure, death or any other event terminating his or her interest in the property, the applicable utility shall refund any deposit posted and interest as allowed by law.

(Prior Code, § 404.01)

UTILITY CONNECTION INSPECTIONS

§ 54.35 INSPECTIONS MANDATED BY SERVICE CONNECTION.

(A) All customers of the city public utilities, with respect to water and electric service, and customers of the city, with respect to sewer service, shall allow properly

identified employees of the Proctor Public Utilities (PUC) and the city access to any and all structures being provided the utility service for the purposes of inspection; provided, that in any non-emergency situation, the city or the PUC shall provide to the owner or occupant of the structure 24 hours' notice of the need to inspect.

(B) Prior to the inspection, the employees shall present picture identification provided by the PUC and/or the city to the structure's owner, if present, or to any occupant of the structure if the owner is not present.

(C) The term **INSPECTION** shall include the inspection of water and sewer mains, service lines, drains and meters and/or electrical lines, connections and meters. (Prior Code, § 405)

§ 54.36 FAILURE TO ALLOW ACCESS.

Any customer, as described in § 54.35, who fails or refuses to allow a properly identified employee of the PUC or the city to inspect shall be subject to the immediate discontinuance of all utility service until the inspection is allowed. All applicable state and federal laws regarding shut-offs of municipal utilities shall be adhered to prior to any shut-off. Upon compliance with a demand to inspect, any utility service disconnected for noncompliance with this subchapter shall be immediately reconnected and service restored upon the payment of any required reconnection fees.

(Prior Code, § 405)