

UTILITIES

Chapter 74

UTILITIES

ARTICLE I. IN GENERAL

Secs. 74-1—74-18. Reserved.

ARTICLE II. FRANCHISE FEES

Sec. 74-19. Imposed.

The Franchise Ordinances and setting of Franchise Fees are found in Appendix A.

Secs. 74-20—74-43. Reserved.

ARTICLE III. WATER SYSTEM

DIVISION 1. GENERALLY

Sec. 74-44. Violations—Termination of service.

For a violation of any of the rules and for nonpayment of charges or violations of rules, water may be shut off and it will not be turned on again until all charges, penalties, and fines are paid together with the expense of shutting off and turning on of such water as established by the city, and the City Council may order that no water shall be furnished to any person who is indebted to the city on account of any such charges, penalties, or fines.

(Code 1987, § 610.60; Ord. No. 57-1992, 7-6-1992; Ord. No. 01-2001, 2-25-2001)

Sec. 74-45. Same—By plumbers.

For violation of the provisions of this article by plumbers or for the introduction either voluntarily or at the request of any consumer of any pipe or fixture for which a permit has not been granted by the city, the plumber shall forfeit and pay to the city a sum as established by the city, and any damages that may be sustained through loss of water fees, which may be recordable on his bond or direct action.

(Code 1987, § 610.65; Ord. No. 01-2001, 2-25-2001)

Sec. 74-46. Service contract.

The city reserves the right to make any such further rules and regulations and to change the rates from time to time as may be necessary for the preservation, protection, and proper operation of the water system. The rules, regulations, and water rates hereinafter to be named shall be considered a part of the contract with every person who are supplied with water through the water system of the city, and any persons, company, or corporation, by taking water, shall be considered to express their consent to be bound thereby; and whenever any of them or such others as may be hereafter duly adopted by the Council be violated, the water shall be shut off from the place of such violation, even though two or more parties are receiving water through the same pipe and shall not again be turned on except by order of the city and the payment of a penalty as provided in section 74-127.

(Code 1987, § 610.25)

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Sec. 74-47. Service reservations and limitations.

The city reserves the right at any time to shut off the water for the purpose of extending, replacing, repairing, or cleaning mains and appurtenances, and the city shall not be held liable for any damage arising therefrom. No claim shall be made against the city by reason of breaking of any service pipe or connection.

(Code 1987, § 610.30)

Sec. 74-48. General regulations.

(a) *No unauthorized connection.* No person shall without authority from the city lay any mains or service or take water from the city supply.

(b) *No unauthorized usage.* No person, authorized to take water from any main or service pipe from any specified premises or specified purpose, shall without authority use such water for other than such specified purpose for such premises.

(c) *Interference with operation of water system.* No person shall willfully and without authority from the city injure or remove any property under the control of said city or interfere in any way with the operation, construction, or repairing of the waterworks.

(d) *Tampering with valves and hydrants.* No person shall unlawfully and without authority from the city operate any valve or hydrant.

(e) *Trespassing.* No person shall enter any building of said water system, unless authorized by the city to do so.

(f) *Connections performed only by registered plumber.* No persons other than duly registered plumbers will be allowed to do any work on the service pipes or fixtures connected with the water system, and only a duly registered plumber may make the connections from main to curb box.

(g) *Preservice inspections.* The water will not be turned on to any premises until the work is inspected and found to be in accordance with the rules and regulations.

(h) *Tampering with stopcocks.* No plumber shall turn on or off the water supply at any stopcock at main or curb box nor allow any person in his employ to do so, except for testing purposes and with the approval of the city.

(i) *No shared service connections.* Two or more services must not be connected together except upon special permission from the city.

(j) *Service to building front only.* Services must enter the front of the building nearest to the sidewalks wherever this is practicable.

(k) *Location of service branches.* No branches will be allowed to be connected to the service except on the house side of the meter.

(l) *Safety precautions during excavation.* Excavations for water service connections or repairs shall be done in such manner as to occasion the least inconvenience to the public. The trench shall be properly guarded at all times, and during the night warning lights shall be maintained at any excavation lying within the street lines. The provisions of this article are supplemental to, not in lieu of, all other requirements.

(m) *Water service outside of city.* The city is authorized to furnish water to places outside of the boundaries of the city under the same rules and regulations and at the same or greater rates as fixed for the consumption of water within the city, provided that such furnishing may not be detrimental to the supply of water within the city.

(n) *Temporary connections to hydrants.* The city may permit water to be used

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temporarily from any fire hydrant by attaching a reducer to one of the hydrant openings and controlling the supply by means of a small valve.

(o) *Seasonal restrictions on lawn sprinkling.* From May 15 to September 1 of each year, an odd/even lawn sprinkling regulation shall be in effect for all lawn sprinkling systems supplied by water from the city. Properties with even-numbered addresses may sprinkle lawns only on days with even-numbered dates. Properties with odd-numbered addresses may sprinkle only on days with odd-numbered dates. A one month exception from the odd/even sprinkling restriction may be granted for newly planted sod, grass or landscaping upon registering for exemption and recommendation of the city. Other exemptions may be granted upon evaluation and recommendation of the city.

(Code 1987, § 610.50; Ord. No. 10-2002, 6-23-2002)

Sec. 74-49. Declared water shortage or water pressure emergency.

(a) *Prohibition.* No person shall draw or use water from the city water mains or city water works system for the purpose of sprinkling or watering lawns or gardens, or use any connection with the said system to sprinkle or water lawns or gardens in the city during the period of emergency caused by shortage or water supply or lowering of water pressure in the city water mains, and when such emergency is found, determined, or declared by the city as provided in subsection (b) of this section. Except as is herein provided, such sprinkling or watering shall not be prohibited.

(b) *Declaration of emergency.* The city may, with recommendation of the public works superintendent, declare the existence of such emergency as and when it may become necessary to enforce the restrictions provided by subsection (a) of this section. The city shall determine and declare the necessary period and conditions of such emergency prohibition and the termination thereof. The city shall further determine and order in said resolution proper notification of consumers during such period of prohibition.

(Code 1987, § 610.55; Ord. No. 04-2001, 7-15-2001)

Sec. 74-50. Special offenses; penalty.

Any person who shall maliciously or willfully divert the water or shall corrupt or render the same impure shall be guilty of a misdemeanor.

(Code 1987, § 610.75)

Sec. 74-51. Recovery of damages.

If any person, through unlawful manipulation or tampering with the water system, shall destroy or injure any property, public or private, the damages so caused may be recovered in a civil action brought by the city, including the cost of the suit.

(Code 1987, § 610.80)

Secs. 74-52—74-75. Reserved.

DIVISION 2. CONNECTIONS

Sec. 74-76. Mandatory connection to system.

The owner of any house, building, or property used for human occupation, employment, recreation, or other purpose, situated within the city and abutting any street, alley, or right-of-way in which there is now located a public water main, is hereby required at their expense to connect such property directly with the proper water main in accordance with provisions of this article within 20 days after date of official notice to do so. The city shall be charged with the responsibility of enforcing the connection of all the aforesaid houses, buildings, or properties to

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the public water system. If any of the aforesaid houses, buildings, or properties are determined to not be connected to the public water system within 90 days of the date on which the public water system available to service such house, building, or property, the city shall serve notice of the intent of the city to make such connection by mailing a written notice to the last known address of the record owner of said property by certified mail, postage prepaid, which notice shall advise said record owner of the provisions of this article, and that the city will install the same, assess the cost thereof against the property after 20 days from the date of mailing of said notice unless prior to said time the owner takes out a permit for such connection, and such connection is actually commenced. In the event such owner fails to comply with said notice, the city shall secure such connection to the public water system and shall have the cost thereof assessed as a special assessment against said property in accordance with the provisions of Minn. Stats. § 412.221, subds. 31 and 32, and Minn. Stats. ch. 429.

(Code 1987, § 610.85)

Sec. 74-77. Installation.

(a) *Location of curb boxes.* Curb boxes shall be located at the city right-of-way line. If a sidewalk is present that extends across the right-of-way line and a boulevard exists between the sidewalk and curb, then the curb box may be located within this boulevard as far behind the curb as possible. At all times, the top of the curb box shall be level with the ground surface.

(b) *Separate service connection; multiple dwellings.* Every separate building and each unit in a duplex, twin home, double bungalow, or townhouse supplied with water must have its own service connection directly with the mains and each unit must be provided with a shut-off and drip valve in the cellar from an independent riser pipe. Each water service shall be at least one inch in diameter or larger for single-family homes and for each unit in a duplex, twin home, double bungalow, or townhouse. Each water service serving commercial buildings shall be at least one inch in diameter for buildings containing up to 1,500 square feet of floor area; any building which has more than 1,500 square feet of floor area shall have a minimum service of at least 1½ inches in diameter. These provisions shall apply to all new construction and for any units which connect to the city's water mains hereafter; existing units which do not have separate services as of the effective date of the ordinance from which this section is derived and which are now connected to the city's mains are excepted from these provisions except as set forth below. Two or more adjacent buildings owned by the same person shall be supplied through the same connection only so long as the single ownership continues and provided that the owner agrees to pay all charges for water consumed on the entire premises. Upon the termination of such single ownership, a separate connection shall be made immediately to the building or premises theretofore having the indirect connection, provided that in case there is not water main on any street on which said premises abut, the city may permit such connection to remain until the water main is laid in such abutting street.

(c) *Remote readers required.* Every service shall be metered and shall have remote readers included as a part of the installation. Only meters and readers furnished by the city shall be installed, and they shall remain the property of the city.

(Code 1987, § 610.35; Ord. No. 01-2001, 2-25-2001; Ord. No. 02-2002, 1-20-2002)

Secs. 74-78—74-97. Reserved.

DIVISION 3. SERVICE APPLICATIONS

Sec. 74-98. Required.

Property owners desiring service connections made to their premises must file an application with the city on forms provided for this purpose. Each application must be accompanied by the

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payment of the charge specified in section 74-127. Upon payment of such charge and allowance of the application, the city shall allow the connection from the main or curb box to be installed by a duly registered plumber.

(Code 1987, § 610.10)

Sec. 74-99. Contents.

Applications must state the purpose for which the water is to be used, together with a proper description and location of the property and must be signed by the owner or their authorized agent. The application must state distinctly the point on the property line where the service is to enter the premises.

(Code 1987, § 610.20)

Secs. 74-100—74-126. Reserved.

DIVISION 4. RATES AND CHARGES

Sec. 74-127. Water service.

(a) *Gallonage.* Rates and charges for water service shall be as established by the city.

(b) *Water trunk area charge (WTAC).* The city operates a water service system that serves the needs of the community. A water trunk area charge (WTAC) is needed to establish, construct, repair, replace, maintain, enlarge and improve said system. The WTAC is payable by every lot, parcel or piece of property that will connect to the water service system, or an expansion of an existing use caused added consumption of water, whether residential, commercial, or industrial. The amount of this area charge shall be established by the city and shall be calculated according to the current guidelines of the Metropolitan Council Environmental Services.

(c) *Service connection fee.* No permit shall be issued to tap or connect with any water main of the city either directly or indirectly from any lot, tract, or parcel of land unless a water service connection fee has been paid. The amount of this connection fee shall be as established by the city.

(Code 1987, § 610.45; Ord. No. 01-2001, 2-25-2001; Ord. No. 02-2002, 1-20-2002)

Sec. 74-128. Meters.

(a) *One meter per service account.* Except as otherwise provided, the supply of water through each separate service must be recorded by one meter only for which only one account will be rendered by the city. If additional meters are desired for recording the subdivision of the water supply on the premises, they must be furnished and set by the owner or consumer at their expense. A meter must be installed on all service lines.

(b) *Meters; access and repairs.* Meters must at all times be easily accessible so that they may be examined and read by city employees. Damage due to the carelessness or neglect of the owner or occupants of the premises must be paid for by such owner or occupants. The cost of ordinary maintenance and repairs will be borne by the city. Meters owned by consumers will be under the control of the city. In case of breakage, stoppage, or other irregularity in the meter, the owner or consumer is to notify the city immediately. City employees shall, at all reasonable times, have access to premises for readings of meter or inspecting of plumbing. Any person that refuses to allow current or updated meter reading to be installed by appointment inspected within a five-day notice by the city shall be immediately subject to the surcharge herein provided in subsection (h) of this section. This surcharge may be appealed to the City Council within 30 days of the final notice of the surcharge. In the event that the City Council denies the appeal, the

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surcharge becomes retroactive to the original date. If no appeal is received in writing by the city within 30 days of the final notice, the surcharge will be considered uncontested and will be applied.

(c) *Testing for faulty meters.* At the written request of any owner or consumer, the city will test the meter supplying their premises. A deposit in an amount as established by the city, will be required, and this will be returned if the meter is not found to be registering correctly within two percent on a flow equal to one-sixth of the diameter of the service or in favor of the consumer. Otherwise, the deposit will be retained by the city to cover the cost of the test.

(d) *Faulty meters; refunds of previous consumption charges.* If the testing of a meter as herein provided shows that it fails to register correctly, the charge for water consumed shall be based on the corresponding period of the previous year, or may be otherwise equitably adjusted by the city. Any other adjustment of charges for water supplied shall be made only by resolution of the City Council.

(e) *Arrears; service disconnections.* If the supply to any premises has been shut off except for repairs, the service will not be reestablished unless a written order is given to the city by the owner or authorized agent, nor until all arrears are paid.

(f) *Remote readers; modification of existing meters.* No charge will be made for the installation of a water meter with the capability of having a remote reader assembly attached. All water users who do not have a remote reader assembly shall be charged the cost of modification, not to exceed a per meter charge as established by the city. The water user may pay the entire cost or if not paid in a lump sum, the charges shall be spread over four quarterly billings and added to their water bill.

(g) *Meters for new home construction.* Two water meters are required for all homes constructed on or after January 1, 2005. The main meter records water usage inside the home, which results in sewer charges from that usage. The secondary, or deduct meter is designed for connection to an existing or proposed outdoor sprinkling system and all outside water faucet connections. The deduct meter records outdoor water usage only and there is no sewer charge from that usage. Both meters and meter readers shall be furnished by the city at the expense of the consumer, shall be installed inside the residence, and shall remain the property of the city. The provisions of subsections (b), (c) and (f) of this section will also apply to the installation and maintenance of the deduct meter.

(h) *Surcharge.* A surcharge of \$100.00 per month is hereby imposed on every water bill on or after property owners who are not in compliance with this section or have refused to allow their property to be inspected to determine if there is compliance. All properties found to be in noncompliance with or in violation of this section will be subject to the \$100.00 per month penalty for all months between the two most recent inspections.

(Code 1987, § 610.40; Ord. No. 01-2001, 2-25-2001; Ord. No. 01-2005, 1-30-2005; Ord. No. 04-2007, 2-27-2007; Ord. No. 12-2007, 10-23-2007)

Sec. 74-129. Delinquent accounts, penalty, assessment.

In order to defray the city's increased administrative costs caused by water account delinquencies, a ten percent penalty will be added to water bills not paid within 30 days after the date of billing. On or before November 1 of each year, the water superintendent shall have listed and transmitted to the Council the total unpaid charges for water service against each separate lot or parcel to which such is attributable. The Council may then spread the unpaid charges against the property serviced to the county auditor for collection as other taxes are collected under Minn. Stats. § 444.075. In addition to the assessment, a certification fee in an amount as established by the city, may be certified to the county auditor for collection as other taxes are collected.

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(Code 1987, § 610.70; Ord. No. 01-2001, 2-25-2001)

Secs. 74-130—74-156. Reserved.

ARTICLE IV. SEWERS AND SEWAGE DISPOSAL

DIVISION 1. GENERALLY

Sec. 74-157. Definitions.

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

Building sewer means the extension from the building plumbing to the public sewer or other place of disposal.

Garbage means solid wastes from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

Industrial wastes means the liquid wastes from industrial processes as distinct from sanitary sewage.

Public sewer or *municipal sewer* means a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments.

Sewer means a pipe or conduit for carrying sewage.

(Code 1987, § 600.05)

Sec. 74-158. Applicability of article.

The entire municipal sanitary sewer system shall be operated as a public utility and convenience from which revenues will be derived, subject to the provisions of this article. The city, through its designated representative, shall supervise all sewer connections made to the municipal sanitary sewer system and all excavations for the purpose of installing or repairing the same.

(Code 1987, § 600.01)

Sec. 74-159. Variances.

The City Council may permit variations from the strict appliance of any of the provisions of this article if it is satisfied that there are special circumstances or conditions affecting the premises for which the variance is requested and that the granting of such variation will not materially affect adversely the health, safety, or general welfare of public or private property. Any variation permitted under this provision must be noted on the permit.

(Code 1987, § 600.70)

Sec. 74-160. Entry upon private property.

The city inspector, so designated, and any other duly authorized employee of the city bearing proper credentials and identification, shall at reasonable times be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in connection with the operation of the municipal sanitary sewer system.

(Code 1987, § 600.40)

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Sec. 74-161. Service to properties outside of city.

No buildings located on property lying outside the limits of the city shall be connected to the municipal sanitary sewer system unless there is a proper contract between the city and the municipality in which the building is located.

(Code 1987, § 600.35)

Secs. 74-162—74-190. Reserved.

DIVISION 2. CONNECTIONS

Sec. 74-191. Sewage disposal and connections with sewer.

(a) *General rule.* It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the city or in any area under the joint jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.

(b) *Discharge into natural outlets prohibited.* It shall be unlawful for any person to discharge into any natural outlet within the city or in any area under the jurisdiction of the city, any sanitary sewage, industrial wastes, or other polluted waters.

(c) *Mandatory connection to public sewer system.* The owner of any house, building, or property used for human occupation, employment, recreation, or other purposes, situated within the city and abutting any street, alley, or right-of-way in which there is now located a public sanitary sewer of the city, is hereby required at their expense to install suitable toilet facilities therein, and to connect such facilities directly to the proper public sewer in accordance with provisions of this subdivision within 20 days after date of official notice to do so. The City Manager shall be charged with the responsibility of enforcing the connection of all the aforesaid houses, buildings, or properties to the public sewer system. If any of the aforesaid houses, buildings, or properties are determined to be not connected to the public sewer system within 90 days of the date on which the public sewer system is available to service such houses, buildings, or properties, the City Manager shall serve notice of the intent of the city to make such connection by mailing a written notice to the last known address of the record owner of said property by certified mail, postage prepaid, which notice shall advise said record owner of the provisions of this article, and that the city will install the same, assess the cost thereof against the property after 20 days from the date of mailing of said notice unless prior to said time the owner takes out a permit for such connection and such connection is actually commenced. In the event such owner fails to comply with said notice, the City Manager shall secure such connection to the public sewer system and shall have the cost thereof assessed as a special assessment against said property in accordance with the provisions of Minn. Stats. § 412.221, subs. 31 and 32, and Minn. Stats. ch. 429.

(Code 1987, § 600.10)

Sec. 74-192. Certificate; payment of fee in lieu of assessment.

(a) No permit shall be issued to tap or connect with any municipal sewer system of the city either directly or indirectly from any lot, tract, or parcel of land unless the City Clerk shall have certified:

- (1) That such lot or tract of land to be served by such connection or tap has been assessed for the cost of construction of the sewer main with which the connection is to be made;
- (2) If no assessment has been levied for such construction cost, that proceedings for levying such assessment have been or will be

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commenced in due course;

- (3) That the cost of construction for said sewer main has been paid by the developer, owner, or builder platting said lot or tract of land; this shall not include lots, parcels, or tracts served by the municipal sewer system and which were not a part of the plat or tract developed; or
- (4) If no assessment has been levied and no assessment proceedings will be completed in due course, and the developer, owner, or builder of the lot, tract, or parcel has not paid the cost of improving said lot, tract, or parcel of land, that a sum equal to the portion of the cost of constructing said sewer which would be assessable against said lot or tract has been paid to the city.

(b) If no such certificate can be issued by the clerk, no such permit to tap or connect to said sewer main shall be issued unless the applicant shall pay an additional connection fee which shall be equal to the portion of cost of construction of said main which would be assessable against said lot, tract, or parcel, to be served by such tapping or connection. Said assessable cost is to be determined by the City Manager and the city assessor who may obtain the assistance of an engineer, and said costs shall be on the same basis per front foot as any assessment previously levied against other property for the said main or, if no such assessment has been levied, upon the basis of the uniform charge per front foot which may have been or which shall be charged for similar tapping or connection with said main, determined on the basis of the total assessable costs of said main allocated on a frontage basis; where the assessable cost cannot be so determined, the charge is as established by the city, per front foot of the property in accordance with the minimum frontage requirements of chapter 129. Any sum received by the city under this section shall be paid into a special escrow account until it shall be determined by the City Council whether the property served by said connection under said permit will be assessable for any other sewer main; if it shall be determined that no other main shall be so assessable, then said fee shall be credited to the fund for the sewer main for which the connection was made, but if the lot, tract, or parcel served by the connection is subsequently assessed for another sewer main, such sum shall be transferred to the sum for said main, and credited against the amount assessable against said tract or lot. The City Council may, by its resolution and upon receipt of a consent to assessment form signed by all owners, provide that any charge for sewer connection, as provided by this section, be transmitted to the county auditor to be extended on the proper tax lists of the county to be payable in not more than 20 annual installments, and to provide further that all assessments and interest collected by the county treasurer therefrom shall be paid over to the Finance Director in the same manner as other municipal taxes.

(Code 1987, § 600.50; Ord. No. 01-2001, 2-25-2001)

Sec. 74-193. Permits; licenses; fees; bond and insurance.

(a) *Application required; permit fees; double fee penalty.* Any person desiring to make connection to the municipal sanitary sewer system shall comply with this Code. The application shall be submitted on forms furnished by the city, and shall be accompanied by plans, specifications, and such other information as is desired by the city inspector, together with a permit and inspection fee as established by the city. All costs and expenses incidental to the installation and connection shall be borne by the owner and the owner shall indemnify the city for any loss or damage that may directly or indirectly be occasioned by the installation of the sewer connection including restoring streets and street surfaces. Any person who shall commence work of any kind for which a permit is required under this article or under chapter 105, article II of this Code, pertaining to the state building code, without first having received the necessary permit therefor, shall, when subsequently securing such permit, be required to pay double the fees

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provided by this article for such permit and shall be subject to all the penal provisions of this article. Any application for a connection permit shall state the legal description of the premises as originally assessed, the zoning use classification of the property at the time of the application, and the zoning use classification of the subject premises at the time when assessed.

(b) *Registered plumber required; duties of city inspector.* Permits shall only be issued when the applications show that the work is to be done by persons who have been duly registered pursuant to chapter 105, article II of this Code, pertaining to the state building code. No permit shall be issued until the plumbing in the building to be served is inspected by the city inspector and altered, if necessary, to conform to the state building code to the extent necessary to permit a proper and safe connection to the municipal sanitary sewer system. Upon completion of the work, a copy of the permit shall be signed and dated by the person making the sewer installation and delivered to the city inspector at the time he makes his final inspection of the work. The city inspector shall sign the permit to show that the work and material conform to this Code. The permit shall also be filled out showing the kind and size of pipe, the kind of joint used, the length of the building sewer connection, the depth at the street, the depth at the house, the distance from either side of the house where the connection is made to the house plumbing, and any other information listed on the permit form or required by the city inspector.

(Code 1987, § 600.55; Ord. No. 01-2001, 2-25-2001; Ord No. 01-2002, 1-20-2002)

Sec. 74-194. Excavation permit required.

Installation and excavation shall be done in accordance with the provisions of chapter 62, article III. All excavations shall be open-trench work unless otherwise authorized by the city inspector. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation the pipe is to be laid on is good and firm, the earth shall be pared or molded to give a full support to the lower third of each pipe. Bell holes shall be dug to provide ample space for pouring of joints. Care must be exercised in backfilling below the centerline of the pipe in order to give it proper support. Backfilling shall not be done until the section to be backfilled has been inspected and approved by the city inspector.

(Code 1987, § 600.60)

Sec. 74-195. Independent system for each building.

(a) *No shared service connections.* The drainage and plumbing system of each new building and of new work installed to an existing building shall be separate from and independent of any other building except as provided in subsection (b) of this section and every building shall have an independent connection with a public sewer when such is available.

(b) *Land locked lots.* Where one building stands to the rear of another building on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building only with the approval of the City Council. Where such a building sewer is extended, a cleanout shall be provided immediately inside the rear wall of the front building, and at the property line.

(Code 1987, § 600.65)

Secs. 74-196—74-213. Reserved.

DIVISION 3. DISCHARGE RESTRICTIONS AND LIMITATIONS

Sec. 74-214. Types of wastes prohibited.

(a) *Unlawful discharge.* Except upon issuance of a written permit by the Council, it shall be unlawful to discharge any of the following described waters or wastes into the municipal

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sanitary sewer system:

- (1) Any liquid or vapor having a temperature higher than 180 degrees Fahrenheit.
- (2) Any waters or wastes containing more than 100 parts per million by weight, of fat, oil, or grease.
- (3) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- (4) Any garbage that has not been shredded so that the garbage particles are smaller than one-half inch in their largest dimension.
- (5) Any ashes, cinders, sand, and straw shavings, metal, glass, rages, feathers, plastic wood, paunch manure, or any other solid or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage system.
- (6) Any waters or wastes containing an acid or a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment processes or which constitutes a hazard to humans or animals or creates any hazard in the receiving waters of the sewage treatment plant.
- (7) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
- (8) Any noxious or malodorous gas or substance capable of creating a public nuisance.
- (9) Radioactive wastes of any kind.
- (10) Any waters or wastes having a five-day biochemical oxygen demand greater than 500 parts per million by weight.
- (11) Any waters or wastes containing more than 500 parts per million by weight of suspended solids.
- (12) Any waters or wastes having an average daily flow greater than two percent of the average daily sewage flow of the municipal sewer system.

(b) *Pretreatment required.* The Council may, as a condition to any permit issued pursuant to subsection (a) of this section, require the applicant to provide, at his expense, such preliminary treatment as may be necessary to:

- (1) Reduce biochemical oxygen demand to 500 parts per million and suspended solids to 500 parts per million by weight;
- (2) Reduce objectionable characteristics or constituents to within the maximum limits provided for in subsections (a)(1) through (8) of this section; and
- (3) Control the quantities and rates of discharge of such waters or wastes.

Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval of the City Council and of the Minnesota Pollution Control Agency (MPCA), and no construction of such facilities shall be commenced until said approvals are obtained in writing. Any preliminary treatment facilities shall be maintained continuously in satisfactory and effective operation, by the owner at his expense. His

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failure to do so shall be construed as a public nuisance and the city reserves the right to discontinue service. The owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer line to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the City Council. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this section shall be determined in accordance with methods employed by the state department of health or the state pollution control agency and shall be determined at the control manhole provided for herein, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(c) *Special user contracts.* Nothing contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern. Any such agreement must be in accord with the terms of the contract between the city and the City of Spring Park.

(Code 1987, § 600.15)

Sec. 74-215. Discharge of industrial wastes.

It shall be unlawful to discharge into the municipal sanitary sewer system any industrial wastes unless prior approval of the Metropolitan Council Environmental Services (MCES) is obtained. The MCES shall approve the discharge of industrial wastes when, in their opinion, the proposed wastes will not be of an unusual amount or character, and are not in excess of the limitation of this article. The MCES shall continue to review the amount and character of the industrial waste, and shall revoke their approval of such discharge into the municipal sanitary sewer system when in his opinion the wastes are unusual in amount or character and in excess of the limitations of this article. Notice of revocation of approval shall be mailed by certified mail to the last known address of the owner. The owner shall have ten days from the date of mailing of said notice within which to file an appeal therefrom by filing a notice of intent to appeal with the City Manager, whereupon the City Council shall within 30 days review the decision of the MCES to revoke approval.

(Code 1987, § 600.20)

Sec. 74-216. Prohibiting discharges into the sanitary sewer system.

(a) *Purpose.* The discharge of water from roof, surface, groundwater sump pump, footing tile, swimming pool, air conditioning, or other natural precipitation into the city sewerage system results in flooding and overloading of the sewerage system. When this water is discharged into the sanitary sewer system, it is treated at the sewage treatment plant. This results in very large and needless expenditures. The City Council, therefore, finds it in the best interest of the city to prohibit such discharges.

(b) *Discharge prohibited.* No water from any roof, surface, groundwater sump pump, footing tile, swimming pool, or other natural precipitation shall be discharged into the sanitary sewer system. Dwellings and other buildings and structures which require, because of infiltration of water into basements, crawl spaces, and the like, a 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

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is connected to city storm sewer or discharge through the curb and gutter to the street. It shall consist of a rigid discharge line, without valving or quick connections for altering the path of discharge, and if connected to the city storm sewer line, include a check valve and an air gap located in a small diameter structure as shown in the city's standard plates.

(c) *Disconnection.* Before April 1, 1997, any person having a roof surface, groundwater sump pump, footing tile, or swimming pool now connected and/or discharging into the sanitary sewer system shall disconnect or remove same. Any disconnects or openings in the sanitary sewer system shall be closed or repaired in a manner, as approved by city public works or its designated agent.

(d) *Inspection.* Every person owning improved real estate that discharges into the city's sanitary sewer system shall allow an employee of the city or a designated representative of the city to inspect the buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. In lieu of having the city inspect their property, any person may furnish a certificate from a licensed plumber certifying that their property is in compliance with this section. Any person refusing to allow their property to be inspected or refusing to furnish a plumber's certificate within 14 days of the date city employees or their designated representatives are denied admittance to the property, shall immediately become subject to the surcharge hereinafter provided for. Any property found to violate this section shall make the necessary changes to comply with this section and furnish proof of the changes to the city.

(e) *Future inspections.* Each sump pump connection identified will be reinspected periodically.

(f) *New construction.* All new dwellings that require sumps shall have sumps piped to the outside of the dwelling and comply with the provisions of this section before a certificate of occupancy is issued.

(g) *Surcharge.* A surcharge of \$100.00 per month is hereby imposed on every sewer bill mailed to property owners who are not in compliance with this section or who have refused to allow their property to be inspected to determine if there is compliance. All properties found during reinspection to have violated this section will be subject to the \$100.00 per month penalty for all months between the two most recent inspections.

(Code 1987, § 600.25; Ord. No. 88-1997, 3-15-1997)

Secs. 74-217—74-240. Reserved.

DIVISION 4. RATES AND CHARGES

Sec. 74-241. Established.

(a) *Council action.* Rates and charges for the collection and treatment of sewage shall be established by the city. All availability charges, area charges and connection fees shall be paid at the time a building permit is obtained, unless a subdivision agreement, development agreement, or resolution provides otherwise.

(b) *Service availability charge.* In addition to, and not in lieu of, all other charges imposed from time to time by the city for building permits, sewer connection permits, sewage usage rates, and sewer area charges, the then prevailing Metropolitan Council Environmental Services agency service availability charge (SAC) shall be paid to the city at the time a building permit for new construction is issued, or at the time a sewer connection permit is issued for the connection of an existing building to the city sanitary sewer system. The amount of the service availability charge shall be established by the Metropolitan Council Environmental Services agency.

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(c) *Sewer trunk area charge (STAC).* The city operates a sewage collection system to serve the needs of the community. A sewer trunk area charge (STAC) is needed to establish, construct, repair, replace, maintain, enlarge and improve said system. The STAC is payable by every lot, parcel or piece of property that will connect to the sewage collection system, or cause additional use or excessive discharge of sewage, whether residential, commercial or industrial, or the construction of additional units upon land already connected to the system. The amount of this area charge shall be as established by ordinance and shall be calculated according to the current guidelines of the Metropolitan Council Environmental Services agency.

(d) *Service connection fee.* No permit shall be issued to tap or connect with any municipal sewer system of the city either directly or indirectly from any lot, tract, or parcel of land unless a sewer service connection fee has been paid. The amount of this connection fee shall be as established by the city.

(e) *Unusual wastes; special rates.* As to any sewage or industrial waste which is unusual in either character or amount, the City Council reserves the right to impose such supplemental sewage rate charge as said City Council shall determine is reasonable and warranted on the basis of all relevant factors, in addition to all applicable charges hereunder.

(Code 1987, § 600.45; Ord. No. 01-2001, 2-25-2001; Ord. No. 01-2002, 1-20-2002)

Sec. 74-242. Strength charge.

(a) *Recitals.* The Metropolitan Council Environmental Services, a metropolitan WCES organized and existing under the laws of the state (WCES), in order to receive and retain grants in compliance with the Federal Water Pollution Control Act Amendments of 1972 and regulations thereunder (the Act), has determined to impose an industrial user sewer strength charge upon users of the metropolitan disposal system (as defined in Minn. Stats. § 473.121, subd. 24) to recover operation and maintenance costs of treatment works attributable to the strength of the discharge of industrial waste, such sewer strength charge being in addition to the charge based upon the volume of discharge. In order for the city to pay such costs based upon strength of industrial discharge and allocated to it each year by the MCES, it is hereby found, determined and declared to be necessary to establish sewer strength charges and a formula for the computation thereof for all industrial users receiving waste treatment services within or served by the city. Furthermore, Minn. Stats. § 444.075, subd. 3, empowers the city to make such sewer charge a charge against the owner, lessee, occupant, or all of them and certify unpaid charges to the county auditor as a tax lien against the property served.

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

(c) *Establishment of formula.* For the purpose of computation of the strength charge established in subsection (b) of this section, there is hereby established, approved, and adopted in compliance with the Act the same strength charge formula designated by resolution of the Metropolitan Council Environmental Services, such formula being based upon pollution qualities and difficulty of disposal of the sewage produced through an evaluation of pollution qualities and quantities in excess of an annual average base and the proportionate costs of operation and maintenance of waste treatment services provided by the commission.

(d) *Payment.* It is hereby approved, adopted and established that the strength charge established in subsection (b) of this section shall be paid by each industrial user receiving waste

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treatment services and subject thereto before the 20th day next succeeding the date of billing thereof to such user by or on behalf of the city, and such payment thereof shall be deemed to be delinquent if not so paid to the building entity before such date. Furthermore, it is hereby established, approved, and adopted that if such payment is not paid before such date, an industrial user shall pay interest compounded monthly at the rate of two-thirds of one percent per month on the unpaid balance due.

(e) *Establishment of tax lien.* As provided in Minn. Stats. § 444.075, subd. 3e, it is hereby approved, adopted and established that if payment of the strength charge established in subsection (b) of this section is not paid before the 60th day next succeeding the date of billing thereof to the industrial user by or on behalf of the city, said delinquent sewer strength charge, plus accrued interest established pursuant to subsection (d) of this section, shall be deemed to be a charge against the owner, lessee, and occupant of the property served, and the city or its agent shall certify such unpaid delinquent balance to the county auditor with taxes against the property served for collection as other taxes are collected; provided, however, that such certification shall not preclude the city or its agent from recovery of such delinquent sewer strength charge and interest thereon under any other available remedy.

(Code 1987, § 600.80)

Sec. 74-243. Delinquent accounts, penalty, assessment.

In order to defray the city's increased administrative costs caused by water account delinquencies, a ten percent penalty will be added to sewer bills not paid within 30 days after the date of billing. On or before November 1 of each year, the water superintendent shall have listed and transmitted to the Council the total unpaid charges for water service against each separate lot or parcel to which such is attributable. The Council may then spread the unpaid charges against the property serviced to the county auditor for collection as other taxes are collected under Minn. Stats. § 444.075. In addition to the assessment, a certification fee as established by the city may be certified to the county auditor for collection as other taxes are collected.

(Code 1987, § 600.85; Ord. No. 59-1992, 9-14-1992; Ord. 01-2001, 2-25-2001)

Secs. 74-244—74-264. Reserved.

ARTICLE V. STORM DRAINAGE SYSTEMS

DIVISION 1. GENERALLY

Sec. 74-265. Drainage and erosion control.

(a) *Drainage plan.* In the development, improvement or alteration of land, the direction, quantity or quality of drainage shall not be changed unless plans for the development are submitted to the city engineer. Runoff shall be properly channeled into a storm drain, watercourse, ponding area or other public facility.

(b) *Erosion and sediment control plan.* Prior to the issuance of a building or grading permit for any development, improvement or alteration of land, a plan for erosion and sedimentation control shall be presented with the site plan. The erosion and sedimentation control plan shall specify the measures to be used before, during and after construction until the soil and slope are stabilized by permanent cover. These control measures shall be maintained in good working order until site stabilization occurs.

(c) *Plan approval.* In areas which are susceptible to erosion hazard or sedimentation damage, the city may require the erosion and sedimentation control plan to be approved by the appropriate water management organization prior to the issuance of a permit.

(d) *Approval.* Plans and provisions required for compliance with this article must be

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submitted to the city engineer for approval.

(Code 1987, § 650.45; Ord. No. 98-1998, 6-20-1998; Ord. No. 03-2016, 3-20-2016)

Secs. 74-266—74-293. Reserved.

DIVISION 2. STORMWATER UTILITY

Sec. 74-294. Storm sewer system; statutory authority.

Minn. Stats. § 444.075, authorizes cities to impose just and reasonable charges for the use and availability of storm sewer facilities (charges). By this article, the city elects to exercise such authority.

(Code 1987, § 650.01; Ord. No. 03-2016, 3-20-2016)

Sec. 74-295. Findings and determinations.

In providing for such charges, the findings and determinations set out in this article are made as follows:

- (1) In the exercise of its governmental authority and in order to promote the public health, safety, convenience and general welfare, the city has constructed, operated and maintained a storm sewer system (the system). This article is adopted in the further exercise of such authority and for the same purposes.
- (2) The system, as constructed, heretofore has been financed and paid for through the imposition of special assessments and ad valorem taxes. Such financing methods were appropriate to the circumstances at the time they were used. It is now necessary and desirable to provide an alternative method of recovering some or all of the future costs of improving, maintaining and operating the system through the imposition of charges as provided in this article.
- (3) In imposing charges, it is necessary to establish a methodology that undertakes to make them just and equitable. Taking into account the status of completion of the system, past methods of recovering system costs, the topography of the city and other relevant factors, it is determined that it would be just and equitable to assign responsibility for some or all of the future costs of operating, maintaining and improving the system on the basis of the expected stormwater runoff from the various parcels of land within the city during a standard one-year rainfall event.
- (4) Assigning costs and making charges based upon expected typical stormwater runoff cannot be done with mathematical precision but can only be accomplished within reasonable and practical limits. The provisions of this article undertake to establish a reasonable and practical methodology for making such charges.

(Code 1987, § 650.05; Ord. No. 03-2016, 3-20-2016)

Sec. 74-296. Rates and charges.

(a) *Residential equivalent factor.* Rates and charges for the use and availability of the system shall be determined through the use of a residential equivalent factor (REF). For the purposes of this article, one REF is defined as the ratio of the average volume of surface water runoff coming from one acre of land and subjected to a particular use, to the average volume of

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runoff coming from one acre of land subjected to typical single-family residential use within the city during a standard one-year rainfall event.

(b) *Determination of REFs for land uses.* The REFs for the following land uses within the city and the billing classifications for such land uses are as follows:

<i>Land Uses</i>	<i>REF</i>	<i>Classification</i>
Cemeteries	0.25	1
Parks and railroads	0.75	2
Two-family residential	1.00	3
Single-family residential	1.00	4
Public and private schools and institutional use	1.25	5
Multiple-family residential uses and churches	3.00	6
Commercial, industrial and warehouse uses	5.00	7

(c) *Other land uses.* Other land uses not listed in the table in subsection (b) of this section shall be classified by the City Manager by assigning them to the classes nearly like the listed uses, from the standpoint of probable hydrologic response. Appeals from the City Manager's determination of the proper classifications may be made to the City Council in the same manner as other appeals from administrative determinations under section 129-32.

(Code 1987, § 650.10)

Sec. 74-297. Establishing basic rate.

In determining charges, the Council shall, from time to time, by resolution, establish a basic system rate to be charged against one acre of land having an residential equivalent factor REF of one. The charge to be made against each parcel of land shall then be determined by multiplying the REF for the parcel's land use classification times the parcel's acreage times the basic system rate.

(Code 1987, § 650.15)

Sec. 74-298. Standardized acreage.

For the purpose of simplifying and equalizing charges against property used for single-family and two-family residential purposes, each of such properties shall be considered to have an acreage of one-fifth acre.

(Code 1987, § 650.20)

Sec. 74-299. Adjustments of charges.

The City Council may by resolution, from time to time, adopt policies providing for the adjustment of charges for parcels or groups of parcels, based upon hydrologic data supplied by affected property owners, demonstrating an actual hydrologic response substantially different from the residential equivalent factor REF being used for the parcel or parcels. Such adjustment shall be made only after receiving the recommendation of the City Manager and shall not be made effective retroactively. If the adjustment would have the effect of changing the REF for all or substantially all of the land uses in a particular classification, however, such adjustment shall be accomplished by amending the REF table in section 74-296(b).

(Code 1987, § 650.25)

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Sec. 74-300. Excluded lands.

No charge for system availability or service shall be made against land which is either:

- (1) Public street right-of-way; or
- (2) Vacant and unimproved with substantially all of its surface having vegetation as ground cover.

(Code 1987, § 650.30)

Sec. 74-301. Supplying information.

The owner, occupant or person in charge of any premises shall supply the city with such information as the city may reasonably request related to the use, development and area of the premises. Willful failure to provide such information or to falsify it is a violation of this article.

(Code 1987, § 650.35)

Sec. 74-302. Estimated charges.

If the owner, occupant or person in charge of any premises fails or refuses to provide the information requested, as provided in section 74-301, the charge for such premises shall be estimated and billed in accordance with such estimate, based upon information then available to the city.

(Code 1987, § 650.40)

DIVISION 3. STORMWATER ILLICIT DISCHARGE DETECTION AND ELIMINATION

Sec 74-303. Purpose and Objectives.

The purpose of this Article is to provide for the health, safety, and general welfare of the citizens of the City of Mound through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by state and federal law. This Article 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) MS4 permit process. The objectives of this Article are:

- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system by stormwater discharges by any user;
- (b) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system; and
- (c) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this Article.

Sec 74-304. Definitions.

For the purposes of this Article, the following terms shall have the following meanings:

Authorized Enforcement Agency means employees or designees of the City of Mound or the Minnesota Pollution Control Agency as designated to enforce this Article.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly into stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control

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site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

City means the City of Mound

Clean Water Act means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity means activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acre or more and projects that disturb less than 1 acre if they are part of a larger common plan of development. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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

Illegal Discharge means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 74-309 of this Article.

Illicit Connections means an illicit connection is defined as either of the following: (i) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the City or, (ii) any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City.

Industrial Activity means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

Minnesota Pollution Control Agency (MPCA).

Municipal Separate Storm Sewer System (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying Storm Water.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit means a permit issued by EPA (or by the State of Minnesota under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to Waters of the State, whether the permit is applicable on an individual, group, or general area-wide basis.

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

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

Pollutant means 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 liquids, 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; and noxious or offensive matter of any kind.

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

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

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

Stormwater Pollution Prevention Plan (SWPPP) means a document which describes the Best Management Practices 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, Stormwater Conveyance Systems, and/or Receiving Waters to the maximum extent practicable.

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

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

Sec 74-305. Applicability.

This Article shall apply to all water entering the storm drain system generated on any developed or undeveloped lands unless explicitly exempted by an authorized enforcement agency.

Sec 74-306. Responsibility for Administration.

The City of Mound shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon by the MPCA may be delegated in writing by the Director of Public Works of the City of Mound to persons or entities acting in the beneficial interest of or in the employ of the City.

Sec 74-307. Severability.

The provisions of this Article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Article.

Sec 74-308. Ultimate Responsibility.

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

Sec 74-309. Discharge Prohibitions.

- (d) *Prohibition of Illegal Discharges and Connections.* No person shall discharge or cause to be discharged into the municipal storm drain system or Waters of the State any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited:

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- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
 - (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - (3) A person is considered to be in violation of this Article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
 - (4) Connection of private sump pump and/or drain tile lines to public storm sewers is prohibited unless a Right of Way permit is obtained from the City Engineer.
- (e) *Exemptions.* Except as otherwise provided herein, the following discharges are exempt from discharge prohibitions established by this Article: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains that discharge uncontaminated water, crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if de-chlorinated - typically less than one PPM chlorine), fire-fighting activities, street cleaning activities and any other water source not containing pollutants.
- (1) Discharges specified in writing by the MPCA as being necessary to protect public health and safety.
 - (2) Dye testing is an allowable discharge, but requires a verbal notification to the Director of Public Works 48-hours prior to the start of the test.
 - (3) Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the MPCA or Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Sec 74-310. Suspension of MS4 Access.

(a) *Suspension due to Illicit Discharges in Emergency Situations.* The City of Mound may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the City may take such 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 Article may have their MS4 access terminated if such

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termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its MS4 access.

(c) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City.

Sec 74-311. Industrial or Construction Activity Discharges.

Any person subject to an Industrial or Construction Activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City prior to the allowing of discharges to the MS4.

Sec 74-312. 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 Article as often as may be necessary to determine compliance with this Article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- (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 conditions of the NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (3) The City shall have the right to set up on any permitted facility such 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 its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy per manufacturer's recommendations.
- (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 such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the City access to a permitted facility is a violation of the stormwater discharge permit and of this Article. A person who is the operator of a facility with a NPDES permit 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 this Article.

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- (7) If the City has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Article 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.

Sec 74-313. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES:

The City of Mound has adopted requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or Waters of the State. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or Waters of the State through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. 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 compliant with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Sec 74-314. WATERCOURSE PROTECTION:

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles (including grass clippings, leaves or any other organic material) that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Sec 74-315. NOTIFICATION OF SPILLS:

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or Waters of the State, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such a release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services by calling 911. In the event of a release of non-hazardous materials, said person shall notify the City in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Mound within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec 74-316. ENFORCEMENT:

UTILITIES

Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this Article, the City may order compliance by written Notice of Violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) The 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) Payment of a fine to cover administrative and remediation costs;
- (f) The implementation of source control or treatment BMPs; and
- (g) The deadline within which to remedy the violation.

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

Sec 74-317. 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 by the City within 15 days from the date of the Notice of Violation. The appeal shall be heard by the City Council within 30 days from the date of receipt of the notice of appeal. The decision of the City Council shall be final.

Sec 74-318. ENFORCEMENT MEASURES AFTER APPEAL:

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within the deadline extended by the decision of the City Council, then representatives of the City shall enter upon the subject private property and are authorized to 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 City or its designated contractor to enter upon the premises for the purposes set forth above.

Sec 74-319. COST OF ABATEMENT OF THE VIOLATION:

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs and the deadline to pay the abatement costs. The property owner may file a written protest objecting to the costs and payment terms of the abatement within 15 days. The appeal shall be heard by the City Council within 30 days from the date of receipt of the notice of appeal. If the amount due is not paid within a timely manner as determined by the decision of the City Council after hearing the appeal, the charges will be filed with Hennepin County and shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Sec 74-320. INJUNCTIVE RELIEF:

UTILITIES

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this Article, the authorized enforcement agency 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.

Sec 74-321. COMPENSATORY ACTION:

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the authorized enforcement agency may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

Sec 74-322. 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 Article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Sec 74-323 CRIMINAL PROSECUTION:

Any person that violates this Article shall be deemed guilty of a misdemeanor and upon conviction thereof, may be subject to the maximum fine and imprisonment allowed by State law. Each such violation shall constitute a separate offense punishable to the maximum extent of the law. The authorized enforcement agency may recover all attorneys' fees court costs and other expenses associated with enforcement of this Article, including sampling and monitoring expenses.

(Ord. No. 03-2016, 3-20-2016)