

**CHAPTER 3**

**MUNICIPAL AND PUBLIC UTILITIES –  
RULES AND REGULATIONS, RATES,  
CHARGES AND COLLECTIONS**

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## CHAPTER 3

### MUNICIPAL AND PUBLIC UTILITIES - RULES AND REGULATIONS, RATES, CHARGES AND COLLECTIONS

#### SECTION 3.01. DEFINITIONS.

As used in this Chapter, the following words and terms shall have the meanings stated:

**Subd. 1. "Utility"** means all utility services, whether the same be public City-owned facilities or furnished by public utility companies.

**Subd. 2. "Municipal utility"** means any City-owned utility system, including, but not by way of limitation, water and sewerage service.

**Subd. 3. "Public utility"** means any non-public owned utility system, including, but not by way of limitation, electric, gas and telephone service and also Cable System service.

**Subd. 4. "Company" and "grantee"** mean any public utility system.

**Subd. 5. "Consumer" and "customer"** mean any user of a utility.

**Subd. 6. "Service"** means providing a particular utility to a customer or consumer.

**Subd. 7. "Franchise"** means special rights or privilege by formal agreement granted by the City to a public utility to provide utility services.

#### SECTION 3.02. FIXING RATES AND CHARGES FOR MUNICIPAL UTILITIES.

**Subd. 1. Adoption of Rates and Charges.** All rates and charges for municipal utilities, including, but not by way of limitation, rates for service, permit fees, connection and meter reading fees, disconnection fees, reconnection fees including penalties for non-payment if any, shall be fixed, determined and amended by the Council and adopted by resolution. Such resolution, containing the effective date thereof, shall be kept on file and open to inspection in the office of the City Clerk and shall be uniformly enforced.

Source: City Code  
Effective Date: 9-17-82

**Subd. 2. Repealed**

Source: Ordinance No. 32-2012  
Effective Date: 12-6-12  
Prev. Source: Ordinance No. 65-84  
Effective Date: 4-5-84

#### SECTION 3.03. FIXING RATES AND CHARGES FOR PUBLIC UTILITIES.

All rates and charges for public utilities not regulated by an agency of the State shall be fixed and determined by the Council and adopted by resolution. Upon adoption such rates and charges shall become provisions of this Chapter. Public utility company rates and charges may be fixed and determined in compliance with this Section, as follows:

Source: Ordinance No. 65-84  
Effective Date: 4-5-84

**Subd. 1.** No rate or charge involving an increase thereof shall become effective until approved by the Council. To request such increase the public utility shall prepare its written petition setting forth the then current and proposed rates and charges, the effective date of the proposed increases (which may not be within ninety (90) days of filing the petition), and the reason or reasons necessitating the proposed increase or increases. Such petition shall be filed with the Council by serving the same upon the City Clerk in person or by certified mail, return receipt requested.

**Subd. 2.** Within thirty (30) days of such filing the Council shall adopt a resolution and serve the same upon the resident superintendent of the public utility in like manner as the petition may be served either approving the proposed increases or ordering a hearing thereon to be held within sixty (60) days thereof. If no such action is taken by the Council, such increase or increases shall take effect on the date stated in the public utility's petition as though approved by the Council.

**Subd. 3.** Prior to the hearing date, the public utility shall, without delay, comply with the City's reasonable requests for examination and copying of all books, records, documents and other information relating to the subject matter of the petition. Should the public utility unreasonably delay, fail or refuse such requests, the same shall be grounds for a continuance of the hearing date.

**Subd. 4.** Notice of hearing shall be in the form and manner stated in the resolution. At the hearing all persons wishing to be heard thereon shall be afforded a reasonable opportunity. Findings and a decision shall be made by the Council within fifteen (15) days after the hearing and served upon the public utility.

#### **SECTION 3.04. CONTRACTUAL CONTENTS.**

Provisions of this Chapter relating to municipal utilities shall constitute portions of the contract between the City and all consumers of municipal utility services, and every such consumer shall be deemed to assent to the same. All contracts between public utilities and consumers of utility services other than municipal shall be in strict accord with the provisions of this Chapter.

#### **SECTION 3.05. RULES AND REGULATIONS RELATING TO MUNICIPAL UTILITIES.**

**Subd. 1. Billing, Payment and Delinquency.** All municipal utilities shall be billed monthly or quarterly and a utilities statement or statements shall be sent to each consumer. All charges shall be delinquent if they are unpaid by the bill due date. Bills not paid by the due date shall be charged a late payment penalty of 1% per month until paid or until certified to taxes. If service is suspended due to delinquency, it shall not be restored at that location until a reconnection charge has been paid for each utility reconnected in addition to amounts owed for service and penalties.

**Subd. 2. Application, Connection and Sale of Service.** Application for municipal utility services shall be made upon forms supplied by the City and strictly in accordance therewith. No connection shall be made until consent has been received from the City to make the same. All municipal utilities shall be sold and delivered to consumers under the then applicable rate applied to the amount of such utilities taken as metered or ascertained in connection with such rates.

**Subd. 3. Discontinuance of Service.** All municipal utilities may be shut off or discontinued whenever it is found that:

- A. The owner or occupant of the premises served or any person working on any connection with the municipal utility systems has violated any requirement of the City Code relative thereto, or any connection therewith, or,
- B. Any charge for a municipal utility service or any other financial obligation imposed on the present owner or occupant of the premises served is unpaid after due notice thereof, or,
- C. There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges therefor.
- D. The owner or occupant of the premises served by the City's municipal water service fails (a) within 10 days after written request by the City to the owner or occupant, to provide a time, within 30 days of the written request, to permit entry into the premises by the City, its employees or contractors, during normal working hours, for the purpose of repairing, replacing, modifying or equipping the premises water meter or the equipment for the reading of the meter, or (b) to permit entry into the premises by the City, its employees or contractors to repair, replace, modify or equip the water meter or the equipment for the reading of the meter at and during the time provided.

Ordinance No. 19-2006  
Effective Date: 8-10-06

**Subd. 4. Ownership of Municipal Utilities.** Ownership of all municipal utilities, plants, lines, mains, extensions and appurtenances thereto shall be and remain in the City; and no person shall own any part or portion thereof provided, however, that private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership.

**Subd. 5. Right of Entry.** The City has the right to enter in and upon private property, including buildings and dwelling houses, in or upon which is installed a municipal utility, or connection therewith, at all times reasonable under the circumstances, for the purpose of reading utility meters, for the purpose of inspection and repair of meters or a utility system, or any part thereof, and for the purpose of connecting and disconnecting service.

**Subd. 6. Meter Accuracy.** All water utilities service shall be supplied through a meter which shall accurately measure the amount thereof supplied to any consumer. The consumer shall supply a safe and proper place for the installation of such meters. Meters shall be tested for accuracy by the City upon the request of any consumer who believes his meter to be inaccurate. If, upon test, it appears that such meter overruns to the extent of 3% or more, the City shall pay the cost of such tests and shall make a refund for overcharges collected since the last known date of accuracy but for not longer than six (6) years, on the basis of the extent of the inaccuracy found to exist at the time of the tests. If, upon test, it appears that such meter is slow to the extent of 3% or more, the consumer shall pay for undercharges since the last known date of accuracy but for not longer than six (6) years on the basis of the extent of the inaccuracy found to exist at the time of the test. If, when any meter is tested upon the demand of a consumer, it is found to be accurate or slow or less than 3% fast, the consumer shall pay the reasonable cost of such testing.

**Subd. 7. Unlawful Acts.**

- A. It is unlawful for any person to willfully or carelessly break, injure, mar, deface, disturb, or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture, or appurtenance of any municipal utility or municipal utility system, or commit any act tending to obstruct or impair the use of any municipal utility.
- B. It is unlawful for any person to make any connection with, opening into, use, or alter in any way any municipal utility system without first having applied for and received written permission to do so from the City.
- C. It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the City for non-payment of a bill, or for any other reason, without first having obtained a permit to do so from the City.
- D. It is unlawful for any person to "jumper" or by any means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume unmetered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.

**Subd. 8. Municipal Utility Services and Charges a Lien.**

- A. Payment for service and charges provided for herein shall be the primary responsibility of the owner of the premises served and shall be billed to the owner unless otherwise authorized in writing by the tenant and owner and consented to by the City of Eden Prairie, Minnesota. The City may collect the same in a civil action or, in the alternative and at the option of the City, as otherwise provided in this Subdivision.

Source: City Code  
Effective Date: 9-17-82

- B. Each such charge is hereby made a lien upon the premises served. Unpaid charges shall not be certified to the county auditor until notice has been provided to the owner of the premises involved. The notice shall be sent by first class mail and shall state that if payment is not made before the date for certification, the entire amount unpaid plus an administration fee will be certified to the county auditor for collection as other taxes are collected, The owner of the property shall have the option of paying the balance due on the account plus an administration fee until the date stated in the notice.

Source: Ordinance No. 32-2012

Effective Date: 12-6-12

Prev. Source: Ordinance No. 21-89

Effective Date: 8-17-89

**SECTION 3.06. CONNECTION OR TAPPING PROHIBITED - DELINQUENT ASSESSMENTS OR CHARGES.**

No permit shall be granted to tap or connect with sewer or water mains when any assessment or connection charge for such sewer or water main against the property to be connected is in default or delinquent. If such assessment or connection charges are payable in installments, no permit shall be granted unless all installments then due and payable have been paid.

**SECTION 3.07. CONNECTION TO WATER AND SEWER SERVICES.**

**Subd. 1. Certificate Required.** Pursuant to the authority conferred by Minnesota Statutes 444.075, in addition to all other charges for tapping into or connecting with the municipal sanitary sewer system or the municipal water system, including inspection of connection, street opening fees and permit fees heretofore established by City Code provisions or resolution, no connection permit shall be issued, nor shall any tap or other connection be installed, or made, with or into any municipal sanitary sewer or municipal water system of the City, either directly or indirectly, from any lot or tract of land unless the City Clerk shall have certified as follows:

- A. That the lot or tract of land to be served has been assessed for the cost of construction of the main with which the connection is made, but this shall not include lots or tracts assessed under Subdivision 5 hereof;
- B. If no assessment has been levied for such construction cost that proceedings for the levying of such assessment have been or will be commenced in due course, but this shall not include lots or tracts to be assessed under Subdivision 5 hereof; or,
- C. That the cost of construction for the main has been paid by the developer or builder platting the lot or tract of land, but this shall not include lots or tracts served by the main which were not a part of that plat or tract developed.

**Subd. 2. Additional Connection Charges.** If none of the above conditions can be certified by the City Clerk, no permit to tap or make connection to any sanitary sewer or water main shall be issued unless the applicant shall pay an additional connection fee. Such additional connection fee shall be charged for sanitary sewer and water main made available by agreement with other municipalities, counties or private corporations or individuals, as well as those owned and operated by the City itself. The additional connection fee shall be equal to the average assessment levied against like kind property for a similar public improvement constructed and installed by the City provided, however, for a connection to a residential property, the connection fee shall be equal to the average assessment levied against residential parcels of one-half acre or less. The average assessment shall be determined by taking the total assessment for a similar public improvement and dividing that total by the total number of properties assessed, such determination having regard for construction costs current on the date of such determination. Whenever more than one (1) tap or other connection is requested for service to any lot or tract or whenever any tap or connection is requested for a lot or tract which has previously been part of a lot or tract for which a connection charge has already been imposed pursuant to this Subdivision, an additional charge shall be imposed for each tap or connection requested.

**Subd. 3. Separate Fund.** Any sum collected and received by the City under Subdivision 2 shall be placed in a separate fund and shall be used first to pay the normal, reasonable and current costs of operating and maintaining the municipal sanitary sewer and municipal water system. Net revenues from time to time received in excess of such costs may be used as otherwise provided for by law.

**Subd. 4. Notice and Hearing.** Before the City Manager or his designate makes a final determination of the additional connection fee under Subdivision 2, he shall cause a written notice to be sent to the property owner affected stating the

amount of the proposed connection fee and the basis of its calculation. The notice shall also state that the owner may, within ten (10) days of receipt of the notice, demand a hearing on the matter. If the owner requests a hearing within that time, a hearing shall be held on the matter by the Council within a reasonable time after the date on which the request is made. The notice shall further state that the owner may request that the charges be levied as an assessment against the lot or tract to be served and an application for such request shall be provided with the notice. The application shall be made within ten (10) days of receipt of the notice referred to above if no hearing is requested, or if a hearing is requested within ten (10) days following the hearing. If as a result of the hearing, the Council finds that the proposed connection fee complies with the requirements of Subdivision 2, it shall so determine. If it determines that the proposed fee is in excess of an amount that would have been assessed had the property been assessed, it shall make a determination of the proper amount of the fee with the limits specified in Subdivision 2. No connection shall be made without payment of the connection fee unless the fee is to be assessed pursuant to Subdivision 5.

**Subd. 5. Assessments.** Upon application by the owner waiving his right to notice, hearing and appeal, the Council may cause the connection fee to be levied as an assessment against the lot or tract to be served under the procedure authorized by law with reference to other assessments for benefits of local improvements.

**Subd. 6. Liability for Charge and Certification to County Auditor.** All additional connection fees imposed pursuant to this Section, including those assessed pursuant to Subdivision 5, shall be a charge against the owner of the lot or tract of land to be served. The City Clerk shall certify all unpaid charges to the County Auditor with taxes against the lot or tract to be served for collection as other taxes are collected.

Source: Ordinance No. 18-83  
Effective Date: 6-17-83

(Sections 3.08 through 3.29, inclusive, reserved for future expansion.)

### **SECTION 3.30. RULES AND REGULATIONS RELATING TO WATER SERVICE.**

**Subd. 1. Deficiency of Water and Shutting Off Water.** The City is not liable for any deficiency or failure in the supply of water to customers whether occasioned by shutting the water off for the purpose of making repairs or connections or by any other cause whatever. In case of fire, or alarm of fire, water may be shut off to ensure a supply for fire fighting. In making repairs or construction of new works, water may be shut off at any time and kept off so long as may be necessary.

**Subd. 2. Repair of Leaks.** It is the responsibility of the consumer or owner to maintain the service pipe from the curb stop into the house or other building. In case of failure upon the part of any consumer or owner to repair any leak occurring in his service pipe within twenty-four (24) hours after oral or written notice has been given the owner or occupant of the premises, the water may be shut off and will not be turned on until a reconnection charge has been paid and the water service has been repaired. When the waste of water is great or when damage is likely to result from the leak, the water will be turned off if the repair is not proceeded with immediately.

**Subd. 3. Abandoned Services Penalties.** All service installations connected to the water system that have been abandoned or, for any reason, have become useless for further service shall be disconnected at the main. The owner of the premises, served by this service, shall pay the cost of the excavation. The City shall perform the actual disconnection and all pipe and appurtenances removed from the street right-of-way shall become the property of the City. When new buildings are erected on the site of old ones and it is desired to increase the old water service, a new permit shall be taken out and the regular tapping charge shall be made as if this were a new service. It is unlawful for any person to cause or allow any service pipe to be hammered or squeezed together at the ends to stop the flow of water or to save expense in improperly removing such pipe from the main. Also, such improper disposition thereof shall be corrected by the City and the cost incurred shall be borne by the person causing or allowing such work to be performed.

**Subd. 4. Service Pipes.** Every service pipe must be laid in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than eight (8) feet below the surface in all cases so arranged as to prevent rupture and stoppage by freezing. Frozen service pipes between the curb stop and the building shall be the responsibility of the owner. Service pipes must extend from the curb stops to the inside of the building; or if not taken into a building then to the hydrant or other fixtures which they are intended to supply. A valve the same size as the service pipe shall be placed

close to the inside wall of the building, ahead of the meter and well protected from freezing. Joints on copper tubing shall be flared and kept to a minimum. Not more than one (1) joint shall be used for a service up to seventy (70) feet in length. All joints shall be left uncovered until inspected. Minimum size connection with the water mains shall be one (1) inch in diameter.

**Subd. 5. Private Water Supplies.** No water pipe of the City water system shall be connected with any pump, well, pipe, tank or any device that is connected with any other source of water supply; and when such are found, the City shall notify the owner or occupant to disconnect the same and, if not immediately done, the City water shall be turned off. Before any new connections to the City system are permitted, the City shall ascertain that no cross-connections will exist when the new connection is made. When a building is connected to "City Water," the private water supply may be used only for such purposes as the City may allow.

**Subd. 6. Water Emergencies.**

- A. Whenever in the judgment of the City Manager, or his designee, the water pressure and available water in the municipal water system reaches a level which endangers the public health or safety of residents and other persons in the City, he may declare a state of water emergency which shall continue until such time as he shall determine that the danger to public health or safety no longer exists. Forthwith upon the declaration of a state of water emergency notice thereof shall be given to the news media, and all orders of the City Manager, or his designee, issued pursuant thereto shall be enforced after one hour has elapsed from the time of such notice.
- B. During the existence of a state of water emergency the City Manager, or his designee, may, by order, impose restrictions on sprinkling, irrigation or other utilization of water from the City's municipal water system including, but not limited to: (1) total prohibition of watering, sprinkling, or irrigation of lawn, grass or turf (hereinafter referred to as "irrigation") or (2) prohibition of irrigation on alternating days or during certain hours.
- C. "Municipal water system" means City owned wells, pipes, storage, treatment and related facilities for producing, storing and distributing water.
- D. Failure to comply with restrictions or prohibitions imposed by the City Manager, or his designee, shall result in a surcharge for water service for each day of violation in an amount determined by resolution of the City Council which shall be added to the water bill for the premises on which such violation occurs. The City Manager, or his designee, shall mail a Notice of Surcharge to the violator upon imposition of a surcharge. Continued violations after receipt of the Notice of Surcharge shall be cause for discontinuance of water service to such premises. Receipt of the Notice of Surcharge shall be presumed three (3) days after mailing by the City Manager, or his designee.
- E. Unlawful Act. It is a petty misdemeanor for any person to violate any provision of this Subdivision.

Source: Ordinance No. 23-2001  
Effective Date: 7-19-01

**Subd. 7. Private Fire Hose Connections.** Owners of structures with self-contained fire protection systems may apply for and obtain permission to connect the street mains with hydrants, large pipes, and hose couplings, for use in case of fire only, at their own installation expense and at such rates as the Council may adopt by resolution as herein provided.

**Subd. 8. Opening Hydrants.** It is unlawful for any person, other than members of the Fire Department or other person duly authorized by the City, in pursuance of lawful purpose, to open any fire hydrant or attempt to draw water from the same or in any manner interfere therewith. It is also unlawful for any person so authorized to deliver or suffer to be delivered to any other person any hydrant key or wrench, except for the purposes strictly pertaining to their lawful use.

**Subd. 9. Repealed.**

Source: Ordinance No. 32-2012  
Effective Date: 12-6-12

**Subd. 10. Code Requirement.** All piping, connections and appurtenances shall be installed and performed strictly in accordance with the Minnesota Plumbing Code. Failure to install or maintain the same in accordance therewith or failure to have or permit required inspection shall, upon discovery by the City, be an additional ground for termination of water service to any consumer.

**Subd. 11. Connection Fees.** Service shall be furnished only after proper application has been made and connection fees paid in full.

Source: City Code  
Effective Date: 9-17-82

**Subd. 12. Water Use Restrictions.**

- A. A person may water, sprinkle, irrigate, or otherwise use water from the City's Municipal Water System for lawn areas, grass, or turf (hereinafter referred to as "irrigation" or "irrigate") only on alternating days.
- B. Alternating days means that property with an address ending in an odd number may irrigate only on odd-numbered days of the month and property with an address ending in an even number may irrigate only on even-numbered days of the month.

Source: Ordinance No. 15-2008  
Effective Date: 6-26-2008

- C. No person may water, sprinkle, irrigate, or otherwise use water from the City's Municipal Water System for lawn areas, grass, or turf during the hours of 12:01 p.m. through 5:00 p.m. of any day.
- D. Upon written request and approval by the City Manager, or his designee, and subject to such terms and conditions imposed by the City Manager, or his designee, with respect to such approval, the following persons may be authorized to water, sprinkle, irrigate or otherwise utilize water from the City's municipal water system at times other than as permitted in Subparagraph A and B hereof:

- 1. Any person owning or operating a commercial or business enterprise whose economic well-being is dependent upon irrigation of a lawn, grass or turf owned, leased or operated by it;
- 2. Employees and agents of the City, in such instances wherein lawn, grass or turf used for play fields or areas owned and operated by the City require more frequent irrigation to prevent unreasonable damage thereto;
- 3. Owners and lessees (their employees and agents) of lands newly sodded or grass seeded which requires irrigation to prevent loss of new sod, seed or immature turf or grasses for a period of thirty (30) days.

- E. Failure to comply with restrictions or prohibitions imposed by this subdivision shall result in a surcharge for water service for each day of violation in an amount determined by resolution of the City Council which shall be added to the water bill for the premises on which such violation occurs. The City Manager, or his designee, shall mail a Notice of Surcharge to the violator upon imposition of a surcharge. Continued violations after receipt of the Notice of Surcharge shall be cause for discontinuance of water service to such premises. Receipt of the Notice of Surcharge shall be presumed three (3) days after mailing by the City Manager, or his designee.

- F. Unlawful Act. It is a petty misdemeanor for any person to violate any provision of this Subdivision.

Source: Ordinance No. 23-2001  
Effective Date: 7-19-01

(Sections 3.31 through 3.49, inclusive, reserved for future expansion.)

### **SECTION 3.50. RULES AND REGULATIONS RELATING TO SEWERAGE SERVICE.**

**Subd. 1. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

- A. "Sewage" means water-carried waste products from residences, public buildings, institutions or other buildings or premises, including the excrement or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present.
- B. "Sewerage system" includes all street lateral, main and intersecting sewers and structures by which sewage or industrial wastes are collected, transported, treated and disposed of provided that this shall not include plumbing inside or a part of a building or premises served or service sewers from a building to the street lateral.

**Subd. 2. Metered Water Not Discharged.** If a portion of the water furnished to any premises is not directly or indirectly discharged into the sewerage system, the quantity of such water shall be deducted in computing the sewerage service charge or rental provided a separate meter shall be installed and operated to register the quantity so not discharged into the sewerage system and provided, also, that where it is not practicable to meter the portion of the water not discharged into the sewerage system, such adjustment may be made as shall be fair and equitable in order to determine the amount of such service charge or rental, but until such adjustment shall be effected that water consumption basis hereinbefore prescribed shall remain in full force and effect.

**Subd. 3. Unlawful Discharge.** It is unlawful to discharge any roof water, ground water, or any other natural precipitation into the sewer system.

**Subd. 4. Unmetered Water Supply.** If any premises discharge normal sewage or industrial waste into the sanitary sewerage system, either directly or indirectly, obtain part or all of the water used thereon from sources other than the City, and the water so obtained is not measured by a meter of equivalent specifications to the meters used by the City, then in such case the City shall permit the discharge of normal sewage or industrial waste into its sanitary sewerage system only when the owner of such premises or some other interested party shall at his own expense install and maintain for the purpose of metering such water supply a water meter of equivalent specifications to those installed by the City in connection with the City water system. Each water meter shall be installed to measure all water received on such premises and the above charges and rates shall be applied to the quantity of water received as measured by such meter. If, because of the nature of the source of the water supply, the City deems it impracticable to thus meter the water on any premises, the Council may by resolution establish a flat charge per month in accordance with the estimated use of water on such premises.

**Subd. 5. Size, Kind and Depth of Pipe.** The City may prescribe the size, kind and depth of sewerage service pipe and connections. The minimum size when placed underground shall be four (4) inches in diameter.

Source: City Code  
Effective Date: 9-17-82

### **SECTION 3.51. RULES AND REGULATIONS RELATING TO DISCHARGES FROM SUMP PUMPS AND OTHER SOURCES INTO THE SEWERAGE SYSTEM.**

**Subd. 1. Purpose.** The Council finds that the discharge of water from roofs, down spouts, eave troughs, rain spouts, yard drains, surfaces, groundwater, sump pumps, footing tiles or swimming pools, foundation drains, yard fountains, ponds, cistern overflow, air conditioning units or systems, areaway drains, industrial processes, and other means of transmitting natural precipitation and surface waters, collectively referred to as excess infiltration and inflow (I & I), into the sewerage system as defined by Section 3.50, Subd. 1 (B), will and has in the past overloaded the sewerage system. The owner of the interceptor sewer system and the waste water treatment facilities—Metropolitan Council Environmental Services (MCES)—has mandated that cities remove excess I & I from the system or be subject to certain fines, penalties and surcharges as imposed by MCES. Further, MCES has determined that failure to remove excess I & I could lead to a moratorium on new connections to the sewerage system required for development and/or redevelopment. The Council, therefore, finds it essential for orderly growth in the community, fiscal responsibility, compliance with the mandated requirements of MCES and City Code requirements that the provisions of this Section be strictly enforced.

**Subd. 2. Prohibition against discharges into sewerage system.** No water from any roof, down spout, eave trough, rain spout, yard drain, surface, groundwater, sump pump, footing tile or swimming pool, foundation drain, yard fountain, pond, cistern overflow, air conditioning unit or system, areaway drain, industrial process, or other natural precipitation shall be discharged into the sewerage 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 sewerage system, except as provided herein. A “permanently installed discharge line” shall be one which provides for year-around discharge capacity to either an appropriate drainage area on the outside of the dwelling, building or structure (in no event shall such a drainage area include property owned by others or any public right-of-way), or is connected to the City storm sewer. The permanently installed discharge line shall consist of a rigid discharge line, without valving or quick connections for altering the path of discharge. It shall not be capable of connection or reconnection to the sewerage system.

**Subd. 3. Disconnection.** Any person having a roof surface, down spout, eave trough, rain spout, yard drain, surface, groundwater, sump pump, footing tile or swimming pool, foundation drain, yard fountain, pond, cistern overflow, air conditioning unit or system, areaway drain, industrial process now connected and/or discharging into the sewerage system shall immediately disconnect and/or remove same. Any disconnects or openings in the sewerage system shall be closed in an effective, workmanlike manner, as approved by the Director of Public Works. If a city drain tile or storm sewer system is available to the property, connection of said discharges to these systems shall be mandatory.

**Subd. 4. Compliance and Inspection.** Every person owning improved real estate that discharges into the City’s sewerage sewer system shall comply with the requirements of this Section within thirty (30) days of the Effective Date. Within thirty (30) days after notice from the City, the property owner shall contact the City Utility Division to schedule an inspection, at no cost to the property owner, of each building and the utility service lines located on such property by an inspector designated by the City. The purpose of this inspection shall be to confirm that there is no sump pump or other prohibited discharge into the sewerage system. In lieu of having the City inspect such property, the property owner may, at the property owner’s expense, furnish a certificate from a licensed plumber, in a form acceptable to the City, certifying that the property is in compliance with this Section.

**Subd. 5. Additional Inspections.** The City may require any building be re-inspected on a yearly basis in conjunction with water meter or other inspections and/or service calls.

**Subd. 6. New home inspections.** All new homes will be required to have their sump pump system inspected and be in compliance with this Section prior to issuance of a certificate of occupancy.

**Subd. 7. Waivers.** The Director of Public Works shall have the power and duty of hearing and deciding requests for waivers from the applicability of the provisions of this Section where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration or cause a safety problem. This may also include cases where it would not be practical or feasible to correct an otherwise prohibited discharge in the City’s sewerage system.

Application for waivers pursuant to this Section shall be addressed in writing to the Director of Public Works. The applications shall at a minimum identify the subject property, the name of the property owner/applicant, and describe in detail what characteristics of the subject property create an undue hardship. Within a reasonable time the Director of Public Works shall make a decision on the matter and send a copy of such decision to the applicant by regular mail. Upon approval of an application for a waiver, a property owner shall be allowed to discharge directly into the sewerage system for a limited time specified in the written decision and in accordance with other terms and conditions specified. The applicant will be required to pay an additional fee for the additional sewer service, along with the regular monthly charge. Fees for this service will be based on estimated yearly average amounts discharged to the sewerage system.

**Subd. 8. Surcharge.** A surcharge of \$100.00 per month is added to every sewer bill mailed to property owners who (a) are found discharging I & I into the sewerage system; (b) have not obtained an inspection required by this Section within 30 days after notice by the City; (c) have not made necessary corrections within the time specified; or (d) are not otherwise in compliance with this Section. The surcharge shall be added every month thereafter for properties not

complying with this Section until the property owner submits proof to the Director of Public Works that the property is brought into full compliance. The full amount of the surcharge shall apply regardless of whether the non-compliance has been for the entire month or a portion of it. All properties found during any yearly re-inspection to have violated this Section will be subject to a \$200.00 surcharge for all months between the two most recent inspections. If the surcharge is not paid, the City reserves the right to assess the property owner the unpaid balance pursuant to Minnesota Statute Section 429.101, as amended.

Source: Ordinance No. 24-2008  
Effective Date: 12-11-2008

(Sections 3.52 through 3.74, inclusive, reserved for future expansion.)

**SECTION 3.75. RULES AND REGULATIONS RELATING TO STORM WATER SEWER SYSTEM UTILITY.**

**Subd. 1. Findings and Determinations.**

- A. 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 water sewer system (the "system"). This section is adopted in the further exercise of such authority and for the same purposes.
- B. The system, as constructed, heretofore has been financed and paid for through the imposition of special assessments and ad valorem taxes. 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 section.
- C. 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 cost, 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 storm water runoff from the various parcels of land within the City during a standard rainfall event.

**Subd. 2. Storm Water Sewer System Utility Established.** A municipal storm water sewer system utility (the "storm water utility") is hereby established and shall be operated pursuant to Minnesota Statutes, 1992, Section 444.075 from which revenues will be derived subject to the provisions of this Section and other laws.

**Subd. 3. Definitions.** Unless the context clearly indicates otherwise, the following words or phrases have the meanings given in this Subdivision.

- A. **"Residential Equivalent Factor (REF)."** One REF is defined as the ratio of the average volume of runoff generated by one acre of a land use to the average volume of runoff generated by one acre of typical single family residential land, assuming Soil Conservation Service (SCS) "Type B" soil conditions, during a rainfall event, all as determined by the City Engineer.
- B. **"Rainfall Event."** A rainfall event is a rainfall of two (2) inches within a 24 hour period.

**Subd. 4. REF For Land Uses.** The REF for each land use is as follows:

<b>Classification</b>	<b>Land Use</b>	<b>REF</b>
1	Single Family/Condos/Townhomes/Flats/Twinhomes/Lofts/ Doubles	1.00
2	Industrial, Apartments	3.30
3	Commercial/Office/Parking/Clinics	4.23
4	Parks/Open Space/Golf Course/ Railroad ROW	0.46
5	Institutions (Churches, Schools, Government Buildings)	3.74

6	Airport, Landfill	0.82
7	Undeveloped (Agricultural, Rural Vacant) *	

\* Undeveloped land will be charged a flat fee without reference to a REF.

**Subd. 5. Exemptions.** The following land uses are exempt from the surface water management fee:

- (a) Public Right-of-way
- (b) Lakes
- (c) Wetlands
- (d) City Property

**Subd. 6. Adjustments to REF.** The Council may adopt policies recommended by the City Engineer for adjustment of the REF for parcels of land based upon hydrologic data to be supplied by property owners, which data demonstrates a hydrologic response substantially different from the standards used by City to establish the REF for the use to which a parcel may be put. Adjustments to a REF shall not retroactively reduce storm water utility charges.

**Subd. 7. Other Land Uses.** Other land uses not listed in the foregoing table shall be classified by the City Engineer by assigning them to classes most nearly like the listed uses runoff volumes for a standard rainfall event. An appeal from the City Engineer's determination of a classification may be made to the City Council pursuant to City Code Section 2.80, provided written notice is served as provided therein not later than thirty (30) days from the date written notice of the decision of the City Engineer is given to the Owner of the property which is the subject of the classification.

**Subd. 8. Setting of Rate.** The rate for storm water utility charges shall be determined from time to time by the Council by resolution. In doing so, the Council shall determine and set an annual budget for the system, including management, planning, inventory, capital expenditures, personnel, equipment and operations.

**Subd. 9. Determination of Charges.** The storm water utility charge for a specific parcel of property shall be determined as follows: parcels on which single-family, condos, townhomes, flats, twinhomes, lofts and double, residences are situated shall be charged an amount equivalent to the rate times one-third (1/3) REF. (For determination of the charge for single-family residences it is assumed that the average of all parcels on which single-family, condos, townhomes, flats, twinhomes, lofts and double, residences are situated comprise one-third (1/3) acre.) Each other property shall be charged an amount determined by multiplying the REF applicable to the class of land use under consideration times the rate for one (1) REF times the total acres or fractions thereof of the land.

**Subd. 10. Billing and Payment.** Storm water utility charges shall be computed and billed periodically with, and included as a charge on, bills issued by the City for water or sewer services pursuant to Section 3.05 of the City Code. If a parcel of land subject to the storm water utility charge is not served by City water or sewer, a separate bill shall be issued every month or every three (3) months for the storm water utility charge. The rules and regulations relating to municipal utilities set forth in City Code Section 3.05 shall apply to the storm water utility.

**Subd. 11. Establishment of Fund.** All fees collected for the storm water utility shall be placed in a fund for the exclusive use or uses described in Subd. 8 hereof and as permitted by Minnesota Statutes, Section 444.075.

Source: Ordinance No. 41-93  
Effective Date: 10-29-93

(Sections 3.76 through 3.98, inclusive, reserved for future expansion.)

**SECTION 3.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.**

Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as follows:

**Subd. 1.** Where the specific section, subdivision, paragraph or provision specifically makes violation a petty misdemeanor, he shall be punished as for a petty misdemeanor.

**Subd. 2.** As to any violation not constituting a petty misdemeanor under the provisions of Subdivision 1 hereof, he shall be punished as for a misdemeanor.

Source: City Code  
Effective Date: 9-17-82