

Chapter 40

UTILITIES*

* **Charter References:** Power of city to establish waterworks and water treatment plants and storm sewers, § 2.1(e)(2); general powers respecting utilities, § 12.1 et seq.

State Law References: Ownership and operation of water supply or sewage disposal facility by city, Mich. Const. 1963, art. 7, § 24; local authority to provide and regulate sewer and water service, MCL 324.4301 et seq.; water and sewer authorities, MCL 124.281 et seq.

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**ARTICLE I.
IN GENERAL**

Secs. 40-1--40-18. Reserved.

**ARTICLE II.
WATER
DIVISION 1.
GENERALLY**

Sec. 40-19. Revenue bonds

Nothing in this Code or in the ordinance adopting this Code shall be deemed to repeal the water revenue bond provisions of Ordinance Number 128, as amended, and such provisions shall continue in effect and shall be kept on file in the office of the city clerk.

Secs. 40-20--40-41. Reserved.

**DIVISION 2.
RATES AND CHARGES**

Sec. 40-42. Water rates in the city.

(a) *Water rates.* The rate charged for water to consumers within the limits of the city shall be the sum of the service demand charge and the commodity charge.

(1) The service demand charge shall be based upon the size of the meter as follows:

Meter Size (inch)	Charge per Month		
1-1-01	1-1-02	1-1-04	
× 3/4	\$ 9.49	\$ 10.34	\$ 11.20
3/4	13.67	15.14	16.60
1	22.02	24.71	27.39
1 1/4	30.36	34.27	38.18
1 1/2	42.89	48.63	54.37
2	67.94	77.35	86.75
3	134.72	153.90	173.08
4	230.75	263.99	297.18
6	460.13	527.20	593.96
8	710.94	814.32	917.71

(2) The commodity charge shall be based upon the amount of water used by the consumer as follows:

First 100,000 gallons per month, per 1,000 gallons	\$1.67	\$2.03	\$2.38
Over 100,000 gallons per month, per 1,000 gallons	1.42	1.68	1.87

(b) *Private fire hydrant charge.* There shall be a charge of \$21.90 per month for each private fire hydrant within the city and double this fee for each private fire hydrant outside the city.

(c) *Schedule of charges.*

(1) *Private fire connection line charge.* There shall be a charge for each unmetered private fire connection, which charge shall be a demand charge based upon the size of the connection pipe and in the amount as follows for each connection inside the city:

Unmetered Private Fire Connection Line Size (inch)	Charge per Month
3 and smaller	\$ 7.11
4	12.81
6	28.46
8	54.23
10	79.68
Private fire hydrants	28.46

For each connection outside the city, the unmetered private fire connection charge is double the above charges.

(2) *Connection fee.*

- a. In order to defray the cost of constructing the water mains which benefit the individual property owners, there shall be a connection fee of \$25.00 per foot, based on front footage of the property with a minimum of 50 front feet charge; provided, however, no connection shall be charged to properties which were specially assessed for construction of the water line, or built with private dollars.
- b. In addition, a maximum of \$250.00 front fee will be charged for single-family homes. Corner lots will be charged for the least dimension fronting the street or the average of adjacent lots, whichever is greater. Irregular lots will be charged a connection fee based on the average frontage of the adjacent lots.
- c. The connection fee charge funds generated above shall be placed in a special account and used only for the cost of water wells, transmission lines or a water tower. These charges may be changed by city council resolution.

(3) *Debt service/capacity charge.* In order to defray the proportional share of the cost of the water wells, transmission lines, and the water tower, there shall be charged a debt service/capacity charge of \$800.00 per residential equivalent.

(d) *Water main line extension to accommodate service requested.* The cost of extending the existing water system shall be billed to the property owner requesting said extension. The cost of the requested extension shall be billed to the user at the cost to the city plus a 15 percent administrative fee; including, but not limited to, all labor and materials, additional fire hydrants, system loops, as recommended by the city engineers, and repairs of city streets or property made necessary by the main water line extension, plus any service laterals.

(e) *Miscellaneous fees; fees for repair of property owned by city.* Request to repair any property owned by the city, such as water meters, which was damaged due to the property owner, shall pay a time and material charge for the repairs with a minimum fee of \$10.00.

(f) *Connection fee, debt service/capacity charge, property lateral water service charge, application fees and deposits.* All fees and charges as set forth in this section shall be due and payable upon application for connection or revision of service to the water system, except as established by the city council by resolution with respect to subdivisions or planned unit developments with more than 50 parcels or units.

(1) *Deposits.*

- a. All new water accounts within the city limits shall pay a deposit established by city council resolution and amended from time to time. If the water customer pays the water charges by the due date for every billing during the first year of service, the deposit will be credited to the water customer's account, except for renters to whom this credit shall not apply.
- b. Water customers which are renting the building shall not have their deposits returned until final accounting is closed at which time the deposit shall be credited against their final bill.
- c. All new water accounts to existing services outside the city limits shall pay a deposit double that of city deposits, said deposit amount to be established by city council resolution and amended from time to time; said double deposit shall accompany the application fee. The deposit shall not be returned until final accounting is closed, and at which time the deposit shall be credited against the final bill.

(2) *Connection fee.*

- a. In order to defray the cost of constructing the water mains which benefit the individual property owners, there shall be a connection fee of \$17.75 per foot, based on the front footage of the property with a minimum of 50 front feet charge; provided, however, no connection fee shall be charged to properties which were specially assessed for construction of the water line, or the property owner previously paid for their share of the cost for the water line.

- b. In addition, a maximum of 250 front feet will be charged for single-family homes. Corner lots will be charged for the least dimension fronting the street or the average of adjacent lots, whichever is greater. Irregular lots will be charged a connection fee based on the average frontage of the adjacent lots.
- c. The connection fee charge funds generated above shall be placed in a special account and used only for the cost of water wells, transmission lines or a water tower. These charges may be changed by city council resolution.

(3) *Debt service/capacity charge.*

- a. In order to defray the proportional share of the cost of the water wells, transmission lines, and the water tower, there shall be charged a debt service/capacity charge based on the actual or equivalent water meter size required to serve the building as follows. Existing users requesting larger water services or meters shall be charged the rate difference between their existing meter and new meter to cover the proportional share of the increased water capacity. No refunds will be allowed for requests to a smaller water service size or discontinued service.

- b. The debt service/capacity charge funds generated above shall be placed in a special account and used only for the cost of water wells, transmission lines or a water tower. These charges may be changed by city council resolution.

Meter Size (inches)	Rate
5,8	\$350.00
3,4	525.00
1	875.00
1	1,750.00
2	2,800.00
3	5,600.00
4	9,625.00
6	19,250.00

- c. For properties with existing water service that renovate or add on to the existing structure or change the use of the structure, a new debt service/capacity charge will be due. The new charge will be calculated as the debt service/capacity charge for the new building size and use less the debt service/capacity charge for the existing building size and use. Both the proposed and existing charges will be determined according to the REU table. If the debt service/capacity charge calculated for the existing use is greater than the proposed use, there will be no refund to the owner.

(4) *Property lateral water service charge.*

- a. The charge for all property lateral water services or requested replacements shall be as follows:

Service Lateral Size (inches)	Rate

service (with $\times 3/4$ meter)	\$610.00
service (with $3/4 \times 3/4$ meter)	630.00
1 service	800.00

- b. The above rates include the cost of tapping the main, corporation stop, water service, curb stop and box and water meter. These rates may be changed by city council resolution.
- c. Over one-inch service, or service exceeding 66 feet shall be billed to the user at the cost of the city plus a 15 percent administrative fee; including, but not limited to, all labor and materials, costs of the meters, and repairs of city streets or property made necessary by the service extension. In no event shall the charge for a service greater than one inch be less than \$875.00.
- (g) *Miscellaneous fees.*
- (1) *Fees for repairs of property owned by city.* Request to repair any property owned by the city, such as water meters, which was damaged due to the property owner, shall pay a time and material charge for the repairs with a minimum fee of \$10.00.
- (2) *Maintenance of water services and water meters.*
- a. The maintenance, including the thawing out of the water service laterals, from the property line to the water main is the city's responsibility. The maintenance, including the thawing out of the water service laterals, from the property line to the customer's building is the customer's responsibility. The fee for thawing out water lines and water meters inside a customer's building shall be paid on a time and material basis with a minimum charge of \$10.00.
- b. The city shall be responsible for the maintenance, testing, and replacement of all water meters after their installation.
- (3) *Charges for turn-on or turn-off of services.* A time and material fee with a minimum of \$10.00 will be charged for turning on and off for a water customer's water service for whatever reason (lack of payment, vacation, etc.). This fee is payable at the time service is requested.
- (4) *Fire hydrant usage charge.*
- a. In order for any city hydrants to be used by the property owners within the city, a permit application shall be filed and approved by the city. The permit application will include methods by which the city water system will be protected from any cross connections or contamination.
- b. The fee for hydrant use is \$25.00 plus \$1.31 per thousand gallons for city residents and double this fee for nonresidents.

The above fees shall be set by city council resolution from time to time as the council may deem fit. (Code 1972, § 25.201; Ord. No. 21, § 1, eff. 3-15-1972; Ord. No. 118, eff. 5-1-1978; Ord. No. 118A, eff. 10-14-1979; Ord. No. 118B, eff. 11-2-1980; Ord. No. 118C, eff. 7-1-1985; Ord. No. 118D, eff. 2-11-1991; Ord. No. 118E, eff. 5-2-1994; Ord. No. 118F, eff. 4-1-1996; Ord. No. 118G, eff. 12-13-2000; Ord. No. 118H, eff. 4-17-2002; Ord. No. 118I, § 1(25.201), eff. 7-15-2005; Ord. No. 118J, § 1, eff. 12-27-2007)

Sec. 40-43. Rates; service outside the city.

(a) Every person who shall use city water outside the corporate limits of the city, which has been sold directly to that person within the city limits, shall pay for the water as follows:

- (1) Double the rate existing within the city limits; and
- (2) A stand-by charge to be determined by each individual instance.

(b) The city council may at any regular meeting or special meeting called for that purpose, cancel or adjust such charges if the use of water resulted from fighting of fires or for other emergencies.

(Code 1972, § 25.202; Ord. No. 66, § 2, eff. 3-15-1972)

Sec. 40-44. Turning off water by the city; lien on property.

(a) Any water bill not paid within ten days after due shall constitute cause for cessation of the water supply without preliminary notice. It shall not be restored until all delinquent payments and interest have been paid. The city reserves to itself the right and authority to cut off the supply of water at any time without incurring any liability or cause of action for damages. In no case shall the city be liable for damages for failure to supply water in consequence of accident or unavoidable causes.

(b) Any water bill not paid when due may be recovered by the city in an action at law, or the amount may be certified to the tax assessor and assessed against the realty to which the water service was rendered and thereafter collected as any municipal taxes on realty are collected and shall be a lien on the property until paid. (Code 1972, § 25.203; Ord. No. 21, § 3, eff. 3-15-1972; Ord. No. 98, eff. 5-9-1973; Ord. No. 118D, eff. 2-11-1991)

Sec. 40-45. Rate discount; senior citizens.

(a) *Discount.* The rate charged for water to senior citizen consumers shall be the same as that provided for all other consumers within the limits of the city; provided, however, that any qualified senior citizen as hereinafter defined whose application shall have been filed with and approved by the city clerk shall receive a discount of \$4.00 per month for water used at their homestead.

(b) *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:

Homestead means any dwelling or residential unit in a multiple dwelling, owned and occupied as a home by the owner thereof or occupied as the dwelling of the renter or lessee; provided, such rented or leased

dwelling unit includes a water meter registered with the city in the name of the senior citizen occupying said dwelling. A mobile home or trailer coach in a trailer park may be homestead.

Household means a claimant and spouse and all other persons residing therein.

Household income means all income received by all persons in a household in a tax year while they were members of the household, including, but not limited to, unemployment compensation, Aid to Dependent Children, Food Stamps.

Owner means a natural person who owns or is purchasing a homestead under a mortgage or land contract or who owns or is purchasing a dwelling situated on the leased lands of another.

Senior citizen means an individual (or couple that file a joint tax return under Public Act No. 281 of 1967 (MCL 206.1 et seq.) who is 65 years of age or older and whose household income did not exceed \$12,000.00 for the preceding taxable year, or whose estimated household income for the present taxable year will not exceed \$12,000.00, as of the date the application is filed for a senior citizen discount.

(c) *Application.* Persons eligible to qualify for a senior citizen discount may file with the city clerk an application for such discount, which shall be in affidavit form as provided by the city manager. Application may be filed at any time and must be updated on a regular basis.

(d) *Public inspection of applications; penalty for violation.* The application for senior citizen discount shall thereafter be open to public inspections. Any person knowingly and willfully making a false affidavit for the purpose of qualifying for a senior citizen water rate discount shall be guilty of a misdemeanor punishable as provided under this Code.

(Code 1972, § 25.204; Ord. No. 118, § 4, eff. 5-1-1978; Ord. No. 118C, eff. 7-1-1985; Ord. No. 118E, eff. 5-2-1994)

Sec. 40-46. Tapping water mains.

No person, except city employees or those having special permission from the city council shall tap any water main or distributing pipes, or insert stopcock therein.

(Code 1972, § 25.205)

Sec. 40-47. Drilling wells.

No person shall drill any water well or any other type of well within the city limits.

(Code 1972, § 25.206; Ord. No. 163, § 6, eff. 5-12-1986)

Sec. 40-48. Fixing and revising rates.

The rates hereby fixed are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the said system as are necessary to preserve the same in good repair and working order, to provide for the payment of the interest upon and the principal of all the bonds as and when the same become due and payable, and the creation of the reserve therefor required by this article, and to provide for such other expenditures and funds for said system as this article may require.

Such rate shall be fixed by the city council and revised from time to time as may be necessary to produce these amounts, and it is hereby covenanted and agreed at all times to fix and maintain such rates for services furnished by the system as shall be sufficient to provide for the foregoing.

(Code 1972, § 25.207; Ord. No. 118D, § 7, eff. 2-11-1991)

Secs. 40-49--40-69. Reserved.

DIVISION 3.

CROSS CONNECTIONS

Sec. 40-70. Adoption of cross connection rules.

The city hereby adopts by reference the water supply cross connection rules of the state department of environmental quality being R 325.11401 to R 325.11407 of the Michigan Administrative Code.

(Code 1972, § 25.301; Ord. No. 104, § 1, eff. 10-22-1974)

Sec. 40-71. Definitions.

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

Backflow means water of questionable quality, wastes or other contaminants entering a public water supply system to a reversal of flow.

Cross connection means a connection or arrangement of piping or appurtenances through which a backflow could occur.

Representative of the City of Portland means the city manager or his duly authorized agent.

(Code 1972, § 25.302; Ord. No. 104, § 2, eff. 10-22-1974)

Sec. 40-72. Inspections.

It shall be the duty of the city to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the city and as approved by the state department of environmental quality.

(Code 1972, § 25.303; Ord. No. 104, § 3, eff. 10-22-1974)

Sec. 40-73. Right to enter property; owner to furnish information.

The representative of the city shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system or systems thereof for cross connections. On request the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such

property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
(Code 1972, § 25.304; Ord. No. 104, § 4, eff. 10-22-1974)

Sec. 40-74. Discontinuance of water service.

The city is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this division exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this division.
(Code 1972, § 25.305; Ord. No. 104, § 5, eff. 10-22-1974)

Sec. 40-75. Potable water supply.

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this division and by the state plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

(Code 1972, § 25.306; Ord. No. 104, § 6, eff. 10-22-1974)

Sec. 40-76. Effect on state plumbing code.

This division does not supersede the state plumbing code but is supplementary to it.
(Code 1972, § 25.307; Ord. No. 104, § 7, eff. 10-22-1974)

Secs. 40-77--40-95. Reserved.

ARTICLE III.

SEWERS

DIVISION 1.

GENERALLY

Secs. 40-96--40-118. Reserved.

DIVISION 2.

SEWER USE REGULATIONS

Sec. 40-119. General requirements.

- (a) The objectives of this division are:
- (1) To establish uniform requirements for direct and indirect contributors into the wastewater collection and treatment system owned by the city and to enable the city to comply with applicable state and federal laws and the general pretreatment regulations (40 CFR 403);
 - (2) To prevent the introduction of pollutants into the municipality's wastewater system which will:
 - a. Interfere with the operation of the system;
 - b. Cause the treatment plant to violate its NPDES discharge permit;
 - c. Contaminate sludges;
 - d. Pass through the system, inadequately treated, into receiving waters or the atmosphere;
 - e. Pose a health threat to sewer workers; or
 - f. Be otherwise incompatible with the system.
 - (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
 - (4) To provide for equitable distribution of the cost of the municipal wastewater treatment system.

(b) This division provides for the regulation of users of the POTW through enforcement of the general requirements, authorizes monitoring and enforcement activities, establishes procedures for regulating industrial dischargers, assumes that existing users capacity will not be preempted and provides for the setting of fees for the equitable distribution costs resulting from the program established herein.

(c) This division shall apply to the users of the city's wastewater treatment system. Except as otherwise provided herein, the city manager shall administer, implement and enforce the provisions of this division.

(Code 1972, § 25.001; Ord. No. 170-C, § 1.1, eff. 4-1-1996)

Sec. 40-120. Abbreviations.

The following abbreviations shall have the designated meanings:

BOD - Biochemical oxygen demand.

CFR - Code of Federal Regulations.

COD - Chemical oxygen demand

EPA - United States Environmental Protection Agency.

IU - Industrial user

l - Liter

IUWDP - Industrial user wastewater discharge permit

mg - Milligrams

mg/l - Milligrams per liter

NPDES - National Pollutant Discharge Elimination System

POTW - Publicly owned treatment works

SIC - Standard industrial classification

SIU - Significant industrial user

SWDA - Solid Waste Disposal Act

TSS - Total suspended solids

USC - United States Code

(Code 1972, § 25.001; Ord. No. 170-C, § 1.2, eff. 4-1-1996)

Sec. 40-121. Definitions.

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

Act means the Federal Water Pollution Control Act, as amended by the Clean Water Act and the Water Quality Act of 1987, 33 USC 1251 et seq.

Authorized representative of industrial user means:

- (1) In the case of a corporation, a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function;
- (2) In the case of a partnership or proprietorship, a general partner or proprietor; and
- (3) An authorized representative of the individual designated above if:
 - a. Such representative is responsible for the overall operation of the facilities from which the discharge into the POTW originates;
 - b. The authorization is in writing; and

c. The written authorization is submitted to the city.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the wall of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

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

Bypass means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility needed for compliance with pretreatment standards.

Categorical industrial user means all nondomestic users subject to categorical pretreatment standards.

Collection system means that portion of the system used for collecting and transporting wastewater to the wastewater treatment plant.

Compatible pollutant means a substance that does not have any of the properties listed in section 40-119(a)(2).

Daily maximum means the maximum allowable discharge of pollutant during a calendar day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Domestic user means a user that discharges only sanitary sewage to the city's publicly owned treatment works.

Effluent limitation means any restriction promulgated by federal, state or local government on quantities, rate and concentrations of chemical, physical, biological, or other constituents, which are discharged from point sources into navigable waters.

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

Indirect connection means a connection to a sewer line where the sewer line was not constructed by means of an assessment district or by city funds, but the property owner participated in the cost of construction by private funds or required the property from the party, which participated in the cost of the construction.

Industrial user means any person who introduces pollutants into the POTW from any non-domestic source.

Industrial user discharge survey means a form provided by the city for the purpose of determining sources of nondomestic discharges from all industries, businesses, commercial establishments or other entities other than residential units.

Inflow/infiltration means the total quantity of water entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines, pump springs, and swampy areas, and storm drain cross connections.

Interference means any discharge which alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW and any of its process or operations, or its sludge use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of wastewater sludge use or disposal.

Monthly average means the arithmetic mean of the values for effluent samples collected during a calendar month.

National Categorical Pretreatment Standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1317), which applies to a specific category of industrial users.

National Pollutant Discharge Elimination System (NPDES) or state discharge permit means a discharge permit issued to the city pursuant to section 402 of the Federal Water Pollution Control Act (33 USC 1342).

New source means:

- (1) Any building, structure, facility or installation of which the construction commenced after the publication of proposed pretreatment standards under section 307(c) (33 USC 1317) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided that:
 - a. The construction is a site at which no other source is located;
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge at an existing source; or
 - c. The process or production equipment that caused the discharge of pollutants at or wastewater generating processes are substantially independent of an existing source at the same site.
- (2) Construction on a site, at which an existing source is located, that results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

- (3) Construction of a new source, as herein defined, has commenced if the owner or operator has:
- a. Begun or caused to begin, as part of a continuous on-site construction program any placement, assembly or installation of facilities or equipment; or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time.

Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

Nondomestic user means an industry, commercial establishment or other entity that discharges wastewater to a publicly owned treatment works other than, or in addition to, sanitary sewage.

Nuisance means, but is not limited to, way condition where wastewater or the effluent from wastewater disposal facility or toilet device is exposed to the surface of the ground or is permitted to drain on or to the surface of the ground into any ditch, storm sewer, lake or stream or when the odor, appearance, or presence of this material has an obnoxious or detrimental effect on or to the senses and/or health of persons or when it shall obstruct the comfortable use or sale of adjacent property or as set forth hereinafter.

Organic chemicals means compound of carbon and hydrogen or their derivatives which are manmade or byproducts of manmade or natural substances which include but are not limited to synthetic fibers, plastics, rubber, medicinals, solvents, lubricating oil additives or other petroleum derivatives.

Pass-through means a discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution

Pollutant means any undesirable dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, commercial, and agricultural waste or any other contaminant.

Pretreatment means the reduction, elimination, or alteration of pollutant properties in wastewater prior to or instead of discharging or introducing to the POTW.

Pretreatment or discharge standard mean any city, state, or federal regulation containing pollutant discharge limits. This term includes local limits, prohibitive discharge limits including those promulgated under 40 CFR 403.5, and categorical pretreatment standards.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension

Publicly owned treatment works (POTW) means the city's wastewater treatment works including any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage and industrial waste. This includes the wastewater treatment plant (WWTP), and the collection system which consists of all sewers, pipes, lift stations and equipment used to convey wastewater to the WWTP. The term also includes the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Residential user means any household user whose contribution to the POTW consists of domestic wastewater only.

Sanitary sewage means water-carried wastes from toilet, kitchen, laundry, bathing or other facilities used for household purposes.

Sanitary sewer means a sewer which carries sewage and to which stormwater, surface water and groundwater are not intentionally admitted. The terms "sanitary sewer system" and "wastewater collection system" may be used interchangeably.

Severe property damage means substantial physical damage to property, damage to the POTW which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. The term "severe property damage" does not mean economic loss caused by delays in production.

Significant industrial user (SIU) means:

- (1) Except as provided in subsection (2) of this definition, the term "significant industrial user" means:
 - a. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N;
 - b. Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - c. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - d. Is designated as such by the city on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).
- (2) Upon finding that an industrial user, meeting the criteria in subsection (1)b of this definition, has

no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or in response to a petition received from an industrial user or the city, may at any time, in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user (40 CFR 403.3(t)(2)).

Significant noncompliance (SNC) means:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 50 percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six month period, equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the city determines has caused, alone or in combination with other discharges, interference, pass-through and/or endangers the health of POTW personnel or the general public;
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the city exercising its emergency authority under section 40-162 to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance;
- (6) Failure to provide, within 30 days after the due date, required reports, such as baseline monitoring reports, 90 day compliance reports, periodic self monitoring reports and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance;
- (8) Any other violation or group of violations which the city determines will adversely affect the operation or implementation of the local pretreatment program.

Slug discharge means any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge.

Storm drain and *storm sewer* mean a sewer which carries stormwater and surface water and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

Toxic pollutant means any pollutant or combination of pollutants identified as toxic pursuant to section 307(a) of the Federal Water Pollution Control Act or other federal statutes or in regulations promulgated by the state under state law.

User means the source of any discharge to the POTW.

Wastewater means the liquid and water-carried industrial wastes or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated.

Waters of the state means and includes:

- (1) Both surfaces and underground waters within the boundaries of this state subject to its jurisdiction, including all ponds, rivers, streams, public ditches, tax ditches, and public drainage systems within this state, other than those designed and used to collect, convey, or dispose of sanitary sewage and any other waters specified by state law; and
- (2) The floodplain free-flowing waters determined by the state department of environmental quality on the basis of 100-year flood frequency.

Wye branch means a local service connection to the sewer that is an angle similar to a wye so that a sewer-cleaning rod will not come into the sewer at a right angle and penetrate the far side, but will travel down the course of the sewer.

(Code 1972, § 25.001; Ord. No. 170-C, § 1.3, eff. 4-1-1996)

Sec. 40-122. General discharge prohibitions.

- (a) No user shall contribute or cause to be contributed, directly or indirectly to the city's POTW, any pollutant or wastewater, which will pass-through or cause interference with the operation or performance of the city's POTW or endanger the health of its employees.
- (b) No user shall contribute the following substances to the city's POTW:
 - (1) Any substances which by reason of their nature or quantity may create a fire or explosion hazard or be injurious to the city's POTW or the operation of the city's POTW, including but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21;
 - (2) Any solid or viscous substances, which may cause obstruction to the flow in a sewer or interfere with the operation of the waste treatment facilities such as, but not limited to: grease, garbage, or any material which can be disposed of as trash;
 - (3) Any wastewater having a pH less than 5.5 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the city's POTW;
 - (4) Any substance which may cause a public nuisance, cause hazard to life or prevent entry to the sewers for maintenance and repair;
 - (5) Heat in amounts which will inhibit biological activity in the city's POTW resulting in

interference, but in no case heat in such quantities that the temperature of the wastewater entering the wastewater treatment plant exceeds 40 degrees Celsius (104 degrees Fahrenheit) unless the state department of environmental quality, upon request of the city, approves alternate temperature limits;

- (6) Petroleum oil, nonbiodegradable cutting oil, fats, wax, grease or products of mineral oil origin in amounts that will cause interference or pass-through;
- (7) Pollutant which result in the presence of toxic gases, vapors, or flames within the city's POTW in a quantity that may cause acute worker health and safety problems;
- (8) Any trucked or hauled pollutants unless approved by the city via the issuing of a discharge permit;
- (9) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city in compliance with applicable state or federal regulations;
- (10) Any pollutant, including oxygen demanding pollutants, released in a discharge at a flow rate and/or concentration (including any slug load) which may cause interference to the city's POTW;
- (11) Any insoluble solids, or viscous substances capable of causing obstruction to the flow in sewers, or other interference with the proper operations of the POTW such as but not limited to ashes, cinders, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, unground garbage, whole paper (except toilet tissue,) paper ground by garbage grinders, sanitary napkins, whole blood, manure, hair, fleshings and entrails;
- (12) Any pollutant causing excessive discoloration of the wastewater such as but not limited to dye, waste vegetation, tanning solution, inks, fruit or vegetable waste;
- (13) Any wastewater having effluent characteristics in excess of:

Constituent	Maximum Concentrations
BOD	300 mg/l (daily maximum)
COD	400 mg/l (daily maximum)
TSS	250 mg/l (daily maximum)
Oil and grease	75 mg/l (daily maximum)
Phosphorus	9 mg/l (daily maximum)
pH	not 9.5

- (14) All metals including but not limited to iron, chromium, copper, cadmium, hexavalent chrome, total chrome, zinc, nickel, arsenic, barium, selenium, silver, and cyanide that could cause the city's POTW to exceed the limits established by the city or appropriate state or federal agency. Acceptable levels of mercury and polychlorinated biphenyls shall be nondetectable per appropriate EPA analyses methods.

(Code 1972, § 25.001; Ord. No. 170-C, § 1.4, eff. 4-1-1996)

Sec. 40-123. Pretreatment requirements.

(a) Industrial users shall provide necessary wastewater treatment as required to comply with the most stringent requirements of this division, Federal pretreatment standards, as established by 40 CFR chapter N, subpart I, state standards and permit conditions, and shall achieve compliance with all National Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations, and with any other pretreatment standards by applicable deadlines.

(b) Any industrial user required to pretreat wastewater shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be approved by the city before construction of the facility or in the case of an existing facility, prior to any discharge to the city's POTW. The review and approval of plans and operating procedures does not relieve the user from complying with the provisions of this division and permit conditions. Any subsequent changes in the pretreatment facility or method of operation shall be reported to and approved by the city prior to the user's initiation of the changes.

(c) Grease, oil and sand interceptors shall be provided by any user at the user's expense when, in the opinion of the city, they are necessary for the proper handling of liquid wastes containing grease, oil or sand in amounts greater than discharged by the average household, or any flammable wastes, and or other harmful ingredients. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which when bolted into place, shall be gastight and watertight. Where installed, all grease, oil and sand interceptors shall be maintained, at the expense of the user, in continuously efficient operation at all times.

(Code 1972, § 25.001; Ord. No. 170-C, § 1.5, eff. 4-1-1996)

Sec. 40-124. Dilution prohibition.

No industrial user shall increase the use of process water or dilute a discharge as a substitute for adequate treatment to achieve compliance with any pretreatment standard or requirement.

(Code 1972, § 25.001; Ord. No. 170-C, § 1.6, eff. 4-1-1996)

Sec. 40-125. Spill prevention and slug control plans.

(a) Industrial users shall provide protection from accidental discharge of materials which may interfere with the city's POTW by developing spill prevention plans. Facilities needed to implement these plans shall be provided and maintained at the owner's or industrial user's expense. Spill prevention plans, including the facilities and operating procedures shall be approved by the city before construction of the facility.

(b) Industrial users that store hazardous substances shall not contribute to the city's POTW after the effective date of the ordinance from which this division is derived unless a spill prevention plan has been approved by the city. Approval of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.

(c) Industrial users shall provide adequate secondary containment or curbing to protect all floor drains from accidental spills and discharges to the receiving sewers. Such curbing shall be sufficient to hold 150 percent of total process area tank volume. All floor drains within the containment area shall be plugged and

sealed. Spill troughs or sumps within the secondary containment shall be provided for storage tanks and chemical storage areas serviced by commercial haulers.

(d) The city shall evaluate each significant industrial user at least once every two years, and other industrial users as necessary, to determine whether such user needs a plan to control slug discharges. If the city decides that a slug control plan is needed, the plans shall contain, at a minimum, the following elements:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the city of slug discharges, including any discharge that would violate a prohibition under section 20-122, with procedures for follow-up written notification within five days; and
- (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run off; worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(Code 1972, § 25.001; Ord. No. 170-C, § 1.7, eff. 4-1-1996)

Sec. 40-126. Notification of harmful discharge.

(a) In the case of any discharge in violation of this division or permit conditions, and in the case of any discharge that could cause problems to the city's POTW, including any slug loadings, as defined in section 40-121, the industrial user shall immediately notify the city's POTW of the discharge by telephone. The notification shall include:

- (1) The date, time, location and duration of the discharge;
- (2) The type of waste including concentration and volume; and
- (3) Any corrective actions taken by the user.

(b) Within five days following such a discharge, the user shall submit a written report to the city describing the cause of the discharge and the measures that will be taken by the user to prevent similar future discharges.

(c) Such notification shall not relieve the user of any expense, loss, damage, or other liability resulting from the discharge, nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed under this division or other applicable state or federal laws.

(d) All industrial users shall promptly notify the city's POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p).

(Code 1972, § 25.001; Ord. No. 170-C, § 1.8, eff. 4-1-1996)

Sec. 40-127. Employee training.

The industrial user shall permanently post a notice in a prominent place instructing all employees to call the city's POTW in the event of a dangerous discharge for which notification is required. Employers shall instruct all employees who may cause or be injured by such a discharge of the users emergency notification procedure, and the city's notification procedure pursuant to section 40-126.

(Code 1972, § 25.001; Ord. No. 170-C, § 1.9, eff. 4-1-1996)

Sec. 40-128. Records.

(a) Users shall retain and make available upon request of the city, the state, or the EPA all records required to be collected by the user pursuant to this division or any permit or order issued pursuant to this division.

(b) These records shall remain available for a period of at least three years after their collection.

(c) This period shall be extended during any litigation concerning compliance with this division or permit conditions.

(Code 1972, § 25.001; Ord. No. 170-C, § 1.10, eff. 4-1-1996)

Sec. 40-129. Analytical requirements.

All analyses, including sampling results submitted in support of any application, report, evidence or required by any permit or order, shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto or, if 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, in accordance with procedures approved by the EPA.

(Code 1972, § 25.001; Ord. No. 170-C, § 1.11, eff. 4-1-1996)

Sec. 40-130. Confidential information.

(a) Information and data (other than effluent data) about a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data. When such a confidentiality claim is asserted, the information shall be treated as such until a determination is made by the city. Effluent data shall be available to the public without restriction.

(b) When a user, furnishing a report, satisfies the city that the user has made the demonstration required by subsection (a) of this section, the portions of the report which might disclose trade secrets or secret processes shall not be made available for inspection except by the state or EPA for uses related to this division, the NPDES permit or the pretreatment program. Confidential portions of the report shall be available for use by the state or EPA in judicial review or enforcement proceedings involving the person furnishing the report. Effluent data will not be recognized as confidential information.

(Code 1972, § 25.001; Ord. No. 170-C, § 1.12, eff. 4-1-1996)

Sec. 40-131. Right of entry.

Representatives of the city, the state and EPA, upon showing proper identification, shall have the right to enter and inspect the premises of any user who may be subject to the requirements of this division. Industrial users shall allow authorized representatives of the city, state, and EPA access to all premises for the purpose of inspecting, sampling, examining records or copying records in the performance of their duties. Authorized representatives shall have the right to place on the user's property such devices as are necessary to conduct sampling and monitoring. Where a user has security or safety measures in force which would require clearance, training, or wearing of special protective gear, the user shall make necessary arrangements at its own expense, to enable authorized representatives to enter and inspect the premises as guaranteed by this section.

(Code 1972, § 25.001; Ord. No. 170-C, § 1.13, eff. 4-1-1996)

Sec. 40-132. Wastewater discharge permit requirements; connection permit required.

No unauthorized person shall uncover, make any connection with, opening into, use, clean out, alter, any portion of the city's wastewater collection system or make any connection with a building sewer which will allow wastewater to flow into the city's wastewater collection system without first obtaining a sewer connection permit from the city on a form furnished by the city. A drawing showing the existing or proposed building and the proposed sewer layout may also be required by the city as part of the application.

(Code 1972, § 25.002; Ord. No. 170-C, § 2.1, eff. 4-1-1996)

Sec. 40-133. Industrial user discharge survey.

All industries, businesses, commercial establishments or other entities other than residential units. must complete an industrial discharge survey for the purpose of determining sources of nondomestic discharges. Existing establishments that have not yet submitted a survey to the city, must submit a completed survey form within 60 days after the effective date of the ordinance from which this division is derived. Proposed new users shall complete the application at least 120 days prior to connecting to or contributing to the city's POTW. Survey forms may be obtained at the city's POTW.

(Code 1972, § 25.002; Ord. No. 170-C, § 2.2, eff. 4-1-1996)

Sec. 40-134. Industrial discharge permit.

All users determined to be significant industrial users are required to obtain an industrial discharge permit. A permit application (see section 40-141), can be obtained from the city. The discharge permit shall contain at a minimum and as appropriate, the following:

- (1) Statement of duration (not greater than three years) including issuance and expiration dates;
- (2) Effluent limitations based on the more stringent of categorical pretreatment standards, local limits as established by this division, and state and local law;
- (3) General and specific discharge prohibitions as established by section 40-122;

- (4) Requirements to pay fees for the wastewater to be discharged to the POTW;
- (5) Limitations on the average and maximum rate and time of discharge or requirements for flow regulation and equalization;
- (6) Requirements and specifications for technical reports, discharge reports or certification statements. These include any reporting requirements contained in a National Categorical Standard or Pretreatment Requirement;
- (7) Requirements and specifications for monitoring programs including sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (8) Compliance schedules;
- (9) Requirements for submission of technical reports, discharge reports or certification statements. These include any reporting requirements contained in a National Categorical Standard or Pretreatment Requirement;
- (10) Requirements for collecting/retaining and providing access to plant records relating to the user's discharge and for providing entry for sampling and inspection;
- (11) Requirements for notification of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater treatment system;
- (12) Requirements for notification of spills potential problems to the city's POTW including slug loadings, upsets or violations;
- (13) Requirements for installation, operation and maintenance of pollution control equipment;
- (14) Requirements to develop and implement spill and slug control plans;
- (15) Other conditions as deemed appropriate by the city to ensure compliance with this division, state and federal pretreatment standards and requirements;
- (16) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and for falsifying information and/or tampering with monitoring equipment;
- (17) Statement of nontransferability;
- (18) Conditions for modification or revocation of permit; and
- (19) Statement of the duty of the user to reapply for the reissuing of their permit within 90 days of notification by the POTW of the expiration of the user's discharge permit.

(Code 1972, § 25.002; Ord. No. 170-C, § 2.3, eff. 4-1-1996)

Sec. 40-135. Industrial user permit duration.

SIU permits shall be issued for a specified time period, not to exceed three years. The user shall apply for permit reissuance at least 180 days prior to the expiration of the user's existing permit.
(Code 1972, § 25.002; Ord. No. 170-C, § 2.4, eff. 4-1-1996)

Sec. 40-136. Industrial user permit modifications.

Within nine months of the promulgation of a National Categorical Pretreatment Standard (NCPS), the wastewater discharge permit (WDP) of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a NCPS, has not previously submitted an application for a WDP as required by section 40-133, the user shall apply for a WDP within 180 days after the promulgation of the applicable NCPS. In addition, a user, with an existing WDP, shall submit an updated industrial user wastewater discharge permit to the city within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard.
(Code 1972, § 25.002; Ord. No. 170-C, § 2.5, eff. 4-1-1996)

Sec. 40-137. Industrial user permit transfer.

Wastewater discharge permits (WDP) are issued to a specific process or operation. A WDP shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without prior notification to the city and provision of a copy of the existing WDP to the new owner. Any succeeding user shall also comply with the terms and conditions of the existing permit. The city may set additional conditions, such as an application requirement.
(Code 1972, § 25.002; Ord. No. 170-C, § 2.6, eff. 4-1-1996)

Sec. 40-138. Industrial user monitoring.

- (a) Industrial users shall provide and maintain in safe and proper condition, at their own expense, facilities to allow the authorized representatives of the city, EPA or the state to inspect, sample, or measure flows from wastewater subject to this division.
- (b) There shall be ample room in or near the facilities to allow accurate sampling and preparation of samples for analysis.
- (c) If locating such facilities on a user's property would be impractical, the user may apply to the city for a right of way or for permission to construct on public property.
(Code 1972, § 25.002; Ord. No. 170-C, § 2.7, eff. 4-1-1996)

Sec. 40-139. Industrial user bypassing.

- (a) *Prohibition of bypass.* A bypass is prohibited and the city may take enforcement action against an individual user for a bypass, unless:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury or severe property damage; or
 - (2) There are no feasible alternatives to a bypass, such as use of auxiliary treatment facilities,

retention of wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed to prevent bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(3) The industrial user submitted notices as required by subsection (b) of this section.

(b) *Notice of bypass.*

(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW at least ten days before the date of the bypass.

(2) An industrial user shall orally notify the city's POTW of an unanticipated bypass that exceeds applicable pretreatment standards or requirements immediately upon becoming aware of the bypass. A written submission shall also be provided within five days of becoming aware of the bypass. The written submission shall contain a description of the bypass and its cause, the duration of the bypass, including exact times and dates, and if the bypass has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the bypass.

(c) *Approved bypass.* The city may approve an anticipated bypass if; after considering its adverse effects, the city's POTW determines that it will meet the three conditions listed in subsection (a) of this section. (Code 1972, § 25.002; Ord. No. 170-C, § 2.8, eff. 4-1-1996)

Sec. 40-140. Industrial user upset provisions.

(a) *Definition.* For the purposes of this section, the term "upset" shall mean an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the IU. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) *Effect of an upset.* An upset shall constitute an affirmative defense to an action brought for noncompliance with pretreatment standards if the requirements of subsection (a) of this section are met.

(c) *Conditions necessary for a demonstration of upset.* A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause of the upset;

(2) The facility was, at the time, being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;

(3) The user has orally submitted the following information to the city immediately upon becoming aware of the upset and a written report provided within five days containing the following:

- a. A description of the upset discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- (4) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
 - (5) The industrial user shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, or fails.

(Code 1972, § 25.002; Ord. No. 170-C, § 2.9, eff. 4-1-1996)

Sec. 40-141. Industrial user discharge permit application.

(a) Any industrial user, determined by the city to be a significant user, shall obtain an industrial user wastewater discharge permit (IUWDP) prior to making any connection for any source of discharge to the city's POTW. Industrial user wastewater discharge permit applications may be obtained at the Portland Wastewater Treatment Plant. The application must be completed and filed with the city within 60 days after the effective date of the ordinance from which this division is derived for an existing SIU and within 90 days prior to connecting to or contributing to the city's POTW or a new SIU. The industrial wastewater discharge application shall contain at a minimum the following information:

- (1) Name, address, and location, (if different from the address and name of owners and operator;
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- (3) Wastewater constituents and characteristics including but not limited to those mentioned in section 40-122 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the act and contained in 40 CFR 136, as amended;
- (4) Time and duration of contribution;
- (5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation and a current water use

schematic;

- (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- (8) The nature and concentrations of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement signed by an authorized representative of the user and certified by a qualified professional regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
- (9) List of any environmental control permits held by or for the facility;
- (10) Each product and/or byproduct produced by type, amount, process or processes and rate of production;
- (11) Type and amount of raw materials processed (average and maximum per day);
- (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of the pretreatment system.

(b) If pretreatment and/or other improvements are required to meet discharge standards, the user shall develop the shortest schedule by which such additional pretreatment/improvements can be completed. The scheduled completion date shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

- (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
- (2) No increment referred to in subsection (a) of this section shall exceed nine months.
- (3) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the city including, as a minimum, whether or not it complied with the increment of progress to be met on such date and if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the city.

(c) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue an industrial user wastewater discharge permit subject to terms and conditions provided herein.

(Code 1972, § 25.002; Ord. No. 170-C, § 2.10, eff. 4-1-1996)

Sec. 40-142. Industrial user reporting requirements; significant dischargers baseline report.

(a) All significant industrial users shall submit baseline reports to the city in a form prescribed and furnished by the city. If reports already containing this information have been submitted to the city, it will not be necessary to submit this information again. Any changes in the base line monitoring report submitted to the city shall be reported within 60 days of the change.

(b) Within 180 days after the effective date of a National Categorical Pretreatment Standard, or 180 days after a final administrative decision has been made by the city upon a SIU determination submission, whichever is later, SIU's, which are existing sources subject to such National Categorical Pretreatment Standards and currently discharging to the city, shall submit a properly completed baseline report.

(c) New SIU sources, shall submit a baseline report at least 90 days prior to commencement of discharge to the city.

(d) In support of the baseline report, the industrial user shall submit, in units and terms specified in the application, the following information:

- (1) Name and address of the facility including the name of the operator and owners;
- (2) List of any environmental control permits held by or for the facility;
- (3) Brief description of the nature, average rate of production, and standard industrial classification of the operation carried out by such user. This description shall include a schematic process diagram indicating points of discharge to the city's collection system from the regulated processes;
- (4) Information showing the measured average, daily and maximum daily flows in gallons per day to the POTW from each of the following:
 - a. Regulated process streams; and
 - b. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e).
- (5) The industrial user shall identify the National Categorical Pretreatment Standards applicable to each regulated process, and shall:
 - a. Submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentrations shall be reported. The sample shall be representative of daily operations.
 - b. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples

must be obtained through flow-proportional composite sampling techniques where feasible. The city may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

- c. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.
 - d. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the POTW.
- (6) The industrial user shall provide a statement, reviewed by an authorized representative of the industrial user and certified by a qualified professional, indicating whether National Categorical Pretreatment Standards are being met on a consistent basis and, if not, whether additional operation and maintenance measures (O&M) or additional pretreatment is required for the industrial user to meet the National Categorical Pretreatment Standards.
- (7) If additional pretreatment or improvements are required to meet the National Categorical Pretreatment Standards, the industrial user will provide the shortest schedule which will provide such additional pretreatment or improvements. The completion date in this schedule shall not be later than the compliance date established for the applicable National Categorical Pretreatment Standard. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable National Categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components commencing construction, completing construction, etc.).
- (8) Modification of the baseline report shall be made:
- a. Where the industrial user's National Categorical Pretreatment Standard has been modified by a removal allowance (40 CFR 403.7) or the combined wastestream formula (40 CFR 403.6(e)), or net/gross calculations (40 CFR 403.15), at the time the industrial user submits a baseline report, the information required in subsections (d)(6) and (d)(7) of this section shall pertain to the modified limits.
 - b. If the National Categorical Pretreatment Standard for the industrial user is modified after the baseline report is submitted, the industrial user shall make any necessary amendments

to information provided as a response to subsections (d)(6) and (d)(7) of this section and submit them to the city within 60 days after the modified limit is approved.

(Code 1972, § 25.003; Ord. No. 170-C, § 3.1, eff. 4-1-1996)

Sec. 40-143. Categorical industry compliance report.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards (CPS) or, in the case of a new source, following commencement of the introduction of wastewater into the city's POTW, any user subject to CPS shall submit to the city a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such standards and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. Where equivalent mass or concentration limits are established by the city for a user, this report shall contain a reasonable measure of the user's longterm production rate. Where a user is subject to CPS expressed in terms of allowable pollutant discharge per unit of production, the report shall include the user's actual production during the appropriate sampling period. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional improvements and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(Code 1972, § 25.003; Ord. No. 170-C, § 3.2, eff. 4-1-1996)

Sec. 40-144. Categorical industry periodic compliance reports.

(a) Any user subject to a categorical pretreatment standard (CPS), after the compliance date of such CPS, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the city during the months of June and December, unless required more frequently in the CPS or by the city, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow limits as specified in the industrial user's wastewater discharge permit. At the discretion of the city and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the city may agree to alter the months during which the above reports are to be submitted.

(b) The city may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the city, of pollutants contained therein which are limited by the applicable pretreatment standards.

(c) For industrial users subject to equivalent mass or concentration limits established by the city in accordance with the procedures in 40 CFR 403.6(c), the report shall contain a reasonable measure of the user's longterm production rate. For all other industrial users subject to CPS expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report shall include the user's actual average production rate for the reporting period.

(d) Significant noncategorical industrial users shall, at a minimum, submit to the city every six months (on dates specified by the city) a description of the nature, concentration, and flow of the pollutants as required in the users discharge permit.

(Code 1972, § 25.003; Ord. No. 170-C, § 3.3, eff. 4-1-1996)

Sec. 40-145. Hazardous waste notification report.

(a) Any industrial user, except as specified in subsection (e) of this section, which discharges to the city's POTW any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261, shall notify the city in writing of such a discharge. 40 CFR 403.12(p)(1) also requires that the EPA, and state hazardous waste authorities be notified in writing.

(b) All hazardous waste notifications shall include:

(1) The name of the hazardous waste as set forth in 40 CFR 261;

(2) The EPA hazardous waste number;

(3) The type of discharge (continuous, batch or other); and

(4) A certification that the user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree that it has none of the characteristics described in section 40-119(a)(2).

(c) In addition to the information submitted in subsection (b) of this section, industrial users discharging more than 20 pounds of hazardous waste per calendar month to the city's POTW shall report the following information to the city:

(1) An identification of the hazardous constituents contained in the waste;

(2) An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and

(3) An estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months.

(d) Hazardous waste notifications shall be submitted to the city no later than 60 days from the discharge of the waste. This notification does not apply to pollutants already under a city self-monitoring requirement.

(e) Industrial users are exempt from the hazardous waste notification requirement during a calendar month in which they discharge five pounds or less of nonacute hazardous wastes. Discharge of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e) requires a one time notification.

(Code 1972, § 25.003; Ord. No. 170-C, § 3.4, eff. 4-1-1996)

Sec. 40-146. Monitoring and analysis in support of self-monitoring requirements.

(a) The reports required by sections 40-142--40-144 and this section shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or where the city determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the city or other persons, approved by the city. This sampling and analysis may be performed by the city in lieu of the industrial user. Where the city itself collects all the information required for the report, the significant industrial user will not be required to submit the report.

(b) If sampling, performed by an industrial user, indicates a violation, the user shall notify the city immediately upon becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city within 30 days after becoming aware of the violation. The industrial user is not required to resample if:

- (1) The city performs sampling at the industrial user at a frequency of at least once per month; or
- (2) The city samples the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(c) The reports required in sections 40-144(a) and 40-144(d) shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. The city shall require that frequency of monitoring is sufficient to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

(d) If an industrial user, subject to the reporting requirement in sections 40-142--40-144, monitors and pollutant more frequently than required by the city, using the procedures prescribed in this section, the results of this monitoring shall be included in the report.

(e) Signatory requirements for industrial user reports. The reports required by sections 40-142--40-144 and this section shall include the certification statement as set forth in 40 CFR 403.6(a)(2)(ii), and shall be signed by an authorized representative.

(Code 1972, § 25.003; Ord. No. 170-C, § 3.5, eff. 4-1-1996)

Sec. 40-147. Connections and installations.

All premises within the city, used so as to produce wastewater, shall be connected to the public sanitary sewer whenever a sewer line is available in a street, ally, easement or right-of-way upon which such premises abut, according to the conditions of this section. See also section 40-132.

(Code 1972, § 25.004; Ord. No. 170-C, § 4.0, eff. 4-1-1996)

Sec. 40-148. When required.

Where the premises had public sewer available prior to October 16, 1967, a connection shall be made

not later than October 17, 1971. Where service is available to any premises not previously discharging wastewater, such connection shall be made prior to occupancy or any use causing the discharge of wastewater. (Code 1972, § 25.004; Ord. No. 170-C, § 4.1, eff. 4-1-1996)

Sec. 40-149. Premises occupied prior to sewer availability.

Where the premises are occupied and producing sewage prior to the availability of sewers, a connection shall be made not later than two years after the public sewer becomes available. (Code 1972, § 25.004; Ord. No. 170-C, § 4.2, eff. 4-1-1996)

Sec. 40-150. Septic tanks.

Where a private septic tank is in use, direct connection to a public sewer shall be made within six months following any service to the septic tank unless an earlier connection is required under section 40-148 or 40-149. (Code 1972, § 25.004; Ord. No. 170-C, § 4.3, eff. 4-1-1996)

Sec. 40-151. Costs and expenses.

(a) All costs and expenses incident to the installation and connection of any building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(b) The person applying for a sewer connection permit may be required to execute unto the city and deposit with the city a performance bond with corporate surety in the amount of the contracted or estimated work, conditioned upon faithful performance of all work with due care and skill, and in accordance with the laws, rules and regulations established by the city pertaining to sewers and plumbing. This bond shall state that the person will indemnify and save harmless the city and the owner of the premises against all damages, costs, expenses, outlays and claims of every nature and kind arising out of mistake or negligence on his part in connection with plumbing, sewer line connection or excavating for plumbing or sewer connection as prescribed in this division. Such bond shall remain in force and must be executed for a period of one year, except that, upon such expiration, it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. Such person shall also provide public liability insurance for the protection of the city, the property owner and all persons, to indemnify them for all damages caused by accidents attributable to the work, with minimum limits as currently established or as hereafter adopted by resolution of the city council from time to time. (Code 1972, § 25.004; Ord. No. 170-C, § 4.4, eff. 4-1-1996)

Sec. 40-152. Independent building sewer.

A separate and independent building sewer shall be provided for every building that generates wastewater. (Code 1972, § 25.004; Ord. No. 170-C, § 4.5, eff. 4-1-1996)

Sec. 40-153. Connections, inspections and materials.

(a) *Inspections.* All building sewer connections to the public sewer shall be inspected by the city prior to burial. Connections to the collection system shall be constructed using a wye. If a wye cannot be installed, a saddle connection may be used upon prior approval of the city. The building sewer material shall have joints approved by the city and shall be of such construction that no water can infiltrate the pipe. The applicant shall notify the city when a sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city or its authorized representative.

(b) *Pipe specifications.* The building sewer pipe shall consist of PVC sewer pipe (ASTM D 1785 SDR 35-D3034 or schedule 40 or schedule 80 or other material approved by the city and having gas and watertight joints. The size and slope of the building sewer shall be subject to the approval of the city but in no event shall the diameter be less than four inches.

(c) *Building sewer location, elevation, slope and alignment.* Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. Building sewer lines laid parallel to a load bearing wall shall be three feet or more from the wall. The depth shall be sufficient to be protected against frost. The slope of such pipe shall not be less than one-eighth inch per foot for six-inch sewer and one-fourth inch per foot for four-inch sewer. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in straight alignment shall be made only with properly curved pipe or long radius fittings. Changes in direction using bends of greater than 45 degrees shall have a cleanout.

(d) *Prohibited lateral sewer connections.* In no case shall a lateral sanitary sewer be connected to the outlet end of a septic tank and cesspool. The sewer shall be laid as direct as possible between the main sanitary line and the building to be connected. No building sanitary sewer shall be connected in any way to the stormwater collection system.

(e) *Excavations.*

(1) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the city. Pipe laying and backfill shall be performed in accordance with ASTM specification (C12-19) except that no backfill shall be placed until the work has been inspected.

(2) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Trenching shall be done so as to conform to OSHA regulation 1926, subpart P, revised July 1, 1990. At streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Code 1972, § 25.004; Ord. No. 170-C, § 4.6, eff. 4-1-1996)

Sec. 40-154. Fees.

All fees and charges as set forth below shall be due and payable upon the filing of an application for connection or revision of service to the sewer system, except as established by the city council by resolution for subdivisions or planned unit developments with more than 50 parcels or units; or for portions of sections 40-160 and 40-161.

(Code 1972, § 25.005; Ord. No. 170-C, § 5.0, eff. 4-1-1996; Ord. No. 170D, § 1(5.0), eff. 12-27-2007)

Sec. 40-155. Deposits.

(a) All new sewer accounts within the city limits shall pay a deposit, established by city council policy, with the application fee. If the sewer customer pays the sewer charges by the due date for every billing after the first year of service, the deposit will be credited to the sewer customer's account except for renters.

(b) Sewer customers which are renting the building shall not have their deposits returned until final accounting is closed. The deposit shall then be credited against their final bill.

(c) All new sewer accounts for existing services outside the city limits shall pay a deposit, established by city council policy, which shall not be returned until final accounting is closed. The deposit shall then be credited against the final bill.
(Code 1972, § 25.005; Ord. No. 170-C, § 5.1, eff. 4-1-1996; Ord. No. 170D, § 1(5.1), eff. 12-27-2007)

Sec. 40-156. Connection fee.

(a) In order to defray the cost of constructing sewer lines, which benefit the individual property owners, there shall be a connection fee of \$1,800.00 per residential equivalent unit. However, property owners that paid for their share for constructing the sewer line shall get a credit of the fee for one residential equivalent unit.

(b) For those properties located within a special assessment district but not listed on the original special assessment roll or paid a partial assessment (for example a vacant lot), a connection fee will be charged in the amount of the special assessment charges for the special assessment district, or \$2,700.00 per residential equivalent unit, whichever is greater; provided further that a partial special assessment shall offset any current charges.

(c) The revenues received by the city for the connection fees shall be set aside in a debt service fund, improvement fund or replacement fund for the intended repayment of debt for future capital improvements or replacements to the POTW.
(Code 1972, § 25.005; Ord. No. 170-C, § 5.2, eff. 4-1-1996; Ord. No. 90-F, eff. 12-13-2000; Ord. No. 170D, § 1(5.2), eff. 12-27-2007)

Sec. 40-157. Debt service/capacity charge.

(a) In order to defray the proportional share of the cost of the POTW, the user shall be charged a debt service/capacity charge of \$1,500.00 per residential equivalent unit required to service the building. In the event a user modifies the use on their premises, the user shall pay a debt service/capacity charge of \$1,500.00 per residential equivalent unit with a credit of \$1,500.00 per residential equivalent unit for their current or past use. No refunds will be allowed for debt service/capacity charges where the residential equivalent unit use decreases.

(b) The residential equivalent unit factor represents a ratio of sewer use by such a class of a premises to normal single-family residential use as reflected in section 40-165.

(c) Revenues received by the city for the debt service/capacity charges shall be set aside for use in

one or more of the following funds: debt service, future capital improvement or sewer system replacement. These funds are intended for the repayment of debt or for future capital improvements or replacements to the POTW.

(d) Users within special assessment districts are subject to the debt service/capacity charge.

(e) For properties with existing sewer service that renovate or add on to the existing structure or change the use of the structure, a new debt service/capacity charge will be due. The new charge will be calculated as the debt service/capacity charge for the new building size and use less the debt service/capacity charge for the existing building size and use. Both the proposed and existing charges will be determined according to the REU table. If the debt service/capacity charge calculated for the existing use is greater than the proposed use, there will be no refund to the owner.

(Code 1972, § 25.005; Ord. No. 170-C, § 5.3, eff. 4-1-1996; Ord. No. 90-F, eff. 12-13-2000; Ord. No. 90G, eff. 4-17-2002; Ord. No. 170D, § 1(5.3), eff. 12-27-2007)

Sec. 40-158. Sewer lateral stub fee.

(a) In order to cover the cost of constructing the sewer lateral stubs which benefit the individual property owners, there shall be a sewer lateral stub fee of \$750.00 unless the construction of the sewer lateral stub was previously paid by the property owner or the construction of the sewer lateral stub was paid as part of a special assessment.

(b) If a sewer lateral stub does not exist or the property owner requests the replacement of an existing sewer lateral stub, there shall be no sewer lateral stub fee and the property owner is responsible for the construction cost of the sewer lateral stub or a sewer stub replacement including the cost of the connection to the main sewer line. The city will restore the pavement as long as the city income tax is in effect, and when the city income tax is not in effect, the property owner shall be responsible for restoring the pavement. The property owner shall be responsible for the restoration of the property in both instances.

(Code 1972, § 25.005; Ord. No. 170-C, § 5.4, eff. 4-1-1996; Ord. No. 170D, § 1(5.4), eff. 12-27-2007)

Sec. 40-159. Permit application and inspection fees.

The fees for permits and inspections required by this division shall be established by the city council by resolution and shall be paid to the city.

(Code 1972, § 25.005; Ord. No. 170-C, § 5.5, eff. 4-1-1996; Ord. No. 170D, § 1(5.5), eff. 12-27-2007)

Sec. 40-160. Industrial Pretreatment Program (IPP) setup and operation fees.

In order to defray the city's costs for the implementation of their industrial pretreatment program, an industrial user shall be charged actual incurred costs to the city plus a 15 percent administration fee. Fees shall include, but are not limited to, IPP monitoring, inspection, surveillance, reviewing reports, recordkeeping and labor.

(Code 1972, § 25.005; Ord. No. 170-C, § 5.6, eff. 4-1-1996; Ord. No. 170D, § 1(5.6), eff. 12-27-2007)

Sec. 40-161. Other industrial pretreatment program fees.

Other fees pertaining to the operation and management of the city's IPP may be charged to the industrial user as deemed necessary to carry out the requirements contained herein. Fees may also be charged for the recovery of fines issued to the city by its control authorities which were incurred as a direct result of a violation of this division by an industrial user. These fees relate solely to the matters covered by this division and are separate from all other fees chargeable by the city.
(Code 1972, § 25.005; Ord. No. 170-C, § 5.7, eff. 4-1-1996; Ord. No. 170D, § 1(5.7), eff. 12-27-2007)

Sec. 40-162. Administrative enforcement remedies.

Any or all of the enforcement remedies found in this section may be used to protect the city, the POTW and its employees from the general discharge prohibitions and requirements found in this division.

- (1) *Notification of violation.* Whenever the city finds that any industrial user has violated or is violating this division, or a discharge permit or order issued hereunder, the city manager or his agent may serve upon said user written notice of the violation. Within ten days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof; to include specific required actions, shall be submitted to the city. Submission of this plan in no way relieves the user of liability for any violation.
- (2) *Consent orders.* The city manager is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include compliance schedules, stipulated fines or remedial actions, and signatures of the city manager and industry representatives. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsection (4) of this section.
- (3) *Show cause order.* The city manager may order any user, which causes or contributes to violation of this division, discharge permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer. Whether or not a duly notified industrial user appears as noticed, enforcement action may be pursued as appropriate.
- (4) *Administrative compliance order.* When the city finds that an industrial user has violated or continues to violate this division or a discharge permit or order issued thereunder, the city manager or his agent may issue an administrative order to the industrial user responsible for the discharge, directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated, and compliance is achieved. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.
- (5) *Cease and desist orders.* When the city manager finds that an industrial user has violated or continues to violate this division or any permit or order issued hereunder, the city manager may

issue an order to cease and desist all illegal or authorized discharges immediately.

- a. In an emergency, the order to cease and desist may be given by telephone.
 - b. In nonemergency situations, the cease and desist order may be used to suspend or permanently revoke industrial wastewater discharge permits.
 - c. The cease and desist order may order the industrial user to take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
- (6) *Administrative fines.* Notwithstanding any other section of this division, any user who is found to have violated any provision of this division, or permits and orders issued hereunder, may be fined in an amount not to exceed (the maximum allowable under state law, e.g., \$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the city shall have such other collection remedies as it has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must file a request for the city to reconsider the fine within ten days of being notified of the fine. Where the city believes a request has merit, it shall convene a hearing on the matter within 15 days of receiving the request from the industrial user.
- (7) *Emergency suspensions.*
- a. The city may suspend the wastewater treatment service and/or wastewater discharge permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW or the environment.
 - b. Any user notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city shall take steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The city shall allow the user to continue its discharge when the endangerment has passed, unless the termination proceedings set forth in subsection (8) of this section are initiated against the user.
 - c. An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement to the city describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. This statement shall be submitted to the city within five days of becoming aware of the harmful contribution.
- (8) *Termination of discharge permit.* Significant industrial users proposing to discharge to the

POTW, must first obtain a wastewater discharge permit from the city. Any user who violates the following conditions of this division or a wastewater discharge permit or order, or any applicable or state and federal law, is subject to permit termination:

- a. Violation of permit conditions;
- b. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- c. Failure to report significant changes in operations or wastewater constituents and characteristics; or
- d. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

Noncompliant Industrial users will be notified of the proposed termination of their wastewater discharge permit and be offered an opportunity to show cause under subsection (3) of this section why the proposed action should not be taken.

- (9) *Annual publication of industrial users in significant noncompliance.* The city shall publish, at least annually in the Review and Observer and Sentinel Standard newspapers, a description of those industrial users which are found to be in significant noncompliance, as defined in section 40-121, with any provisions of this division or any permit or order issued hereunder during the period since the previous publication.

(Code 1972, § 25.006; Ord. No. 170-C, § 6.1, eff. 4-1-1996)

Sec. 40-163. Judicial remedies.

If any user discharges sewage, industrial wastes, or other wastes in the city's wastewater collection system contrary to the provisions of this division or any order or permit issued hereunder, the city, through the city attorney, may commence an action for appropriate legal and/or equitable relief in the county circuit court.

- (1) *Injunctive relief.* Whenever a user has violated or continues to violate the provisions of this division or permit or order issued hereunder, the city may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the user.
- (2) *Civil penalties.*
 - a. Any user who has violated or continues to violate the provisions of this division or permit or order issued hereunder shall be liable to the city for a civil penalty of not more than (maximum allowable under state law, e.g., \$10,000.00 but at least \$1,000.00), plus actual damages incurred by the city per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the city may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling, monitoring and analysis expenses.

- b. The city may petition the court to impose, assess, and recover such sums. In determining the amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(3) *Criminal prosecution.*

a. *Violations, generally.*

- 1. Any user who willfully or negligently violates any provision of this division or permits or orders issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 per violation per day or imprisonment for not more than one year or both.
- 2. In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000.00 per violation per day or imprisonment for not more than three years or both.

- b. *Falsifying information.* Any user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this division, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this division shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation per day or imprisonment for not more than one year or both.

(Code 1972, § 25.006; Ord. No. 170-C, § 6.2, eff. 4-1-1996)

Sec. 40-164. Supplemental enforcement remedies.

(a) *Performance bonds.* The city may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this division or any order or previous permit issued hereunder unless such user first files with it a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the city to be necessary to achieve consistent compliance.

(b) *Liability insurance.* The city may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this division or any order or previous permit issued hereunder, unless the industrial user first submits proof that it has obtained financial assurances sufficient to restore or repair damages to the city's POTW caused by its discharge.

(c) *Water severance.* Whenever an industrial user has violated or continues to violate the provisions of this division or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(d) *Public nuisances.* Any violation of the prohibitions or effluent of this division or permit or order

issued hereunder is hereby declared a public nuisance and shall be corrected or abated as directed by the city or its designee. Any person creating a public nuisance shall be subject to the provisions of chapter 12, article II governing such nuisance, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

(Code 1972, § 25.006; Ord. No. 170-C, § 6.3, eff. 4-1-1996)

Sec. 40-165. Exhibit A, residential equivalent units.

Residential equivalent assignments for uses other than those listed below shall be determined on an individual basis by the city based upon comparable listed uses. The city reserves the right to make adjustments to individual residential equivalent assignments where circumstances are shown to warrant such adjustments.

Occupational Use	Resident Equivalent	Unit Multiplier
Single-family residence	1.0	Per residence
Auto dealers - new and/or used	0.5	0.50 per employee
Auto repair/collision	1.0	Per premises plus 0.25 per 1,000 square feet of building including all service area
Auto wash (coin operated do it yourself) 10 gallons or less per car	1.0	Per stall
Auto wash (mechanical - over 10 gallons per car - not recycled)	10.0	Per stall or production line including approach and drying areas
Auto wash (mechanical - over 10 gallons per car - recycled)	5.0	Per stall or production line including approach and drying areas
Banks and savings and loan associates	0.5	Per 1,000 square feet
Barbershop	1.0	Per shop plus 0.1 per chair after two
Bar and restaurant	0.05	Per seat
Beauty shop	1.0	Per premises plus 0.2 per booth
Bowling alley (no bar)	1.0	Per premises plus 0.2 per alley
Churches	0.01	Per seat
Cleaners (pick-up only)	1.0	Per premises
Cleaners (cleaning and pressing facility)	1.0	Per premises plus 0.5 per 500 square feet
Clinics (medical and dental)	1.0	Per premises plus 0.5 per exam room
Convalescent or boarding homes	1.0	Per premises plus 0.25 per bedroom
Convents	1.0	Per premises plus 0.25 per bedroom
Country clubs and athletic clubs	1.5	Per 1,000 square feet of clubhouse plus restaurant and bar
Drugstore	1.0	Per premises plus snack bar
Factories (exclusive of industrial works)	0.15	Per person/per shift

Funeral home	1.5	Per 1,000 square feet plus residence to be computed separately
Grocery stores and supermarkets	1.0	Per premises plus 0.48 per employee
Gym	1.0	Per premises
Home occupations	1.0	Per premises plus 0.048 per employee
Hospitals	1.1	Per bed
Hotels and motels	0.25	Per room
Industrial works (processing-not wet process)		To be determined at application
Laundry (self serve)	1.0	Per premises plus 0.6 per washer
Mobile homes (freestanding)	1.0	Per unit
Mobile homes (parks and subdivisions)	1.0	Per pad or site at indirect connection plus laundry, community buildings and office
Multiple-family residence		
Duplex or row houses	1.0	Per dwelling unit
Apartment	1.0	Per dwelling unit
Professional office	0.40	Per 1,000 square feet
Public institutions	0.75	Per 1,000 square feet
Restaurants	0.1	Per seat
Restaurants auxiliary		
Dining rooms where used less than 20 hours/week	0.03	Per seat
Schools		
No cafeteria, pool or showers	1.0	Per classroom
Cafeteria, showers and pool	1.75	Per classroom
Cafeteria, shower	1.5	Per classroom
Bus garage	0.25	Per employee
Service station	2.0	Per station
Snack bars, drive-in, etc.	0.05	Per seat
Retail stores (other than listed)	1.0	Per premises plus 0.1 per 1,000 square feet
Theater (drive in)	0.04	Per car space
Theater	0.04	Per seat
Post office	1.0	Per 1,000 square feet
Roominghouses (no meals)	1.0	Plus 0.30 per bedroom
Swimming pool (nonresidential)	3.0	Per 1,000 square foot pool area
Trailer parks (central bathhouses)	0.35	Per trailer
Trailer parks (individual sewer connection)	1.00	Per trailer
Travel trailer parks and campgrounds		
(with individual sewer connections)	0.20	Per site
(without individual sewer connections)	0.15	Per site
Veterinary facility	0.5	Per facility

Veterinary facility with kennel	1.5	Per facility plus 0.5 per five kennels
Warehouse and storage	0.2	Per 1,000 square feet

Note: Each connection to the public sewers will be assigned a minimum of one equivalent user. Where fractional units above 1.00 are computed, the nearest whole number will be assigned.
(Code 1972, § 25.006; Ord. No. 170-C, exhibit A, eff. 4-1-1996)

Secs. 40-166--40-183. Reserved.

DIVISION 3.

RATES AND CHARGES

Sec. 40-184. Schedule of rates and charges.

The rates and charges set forth below shall apply and shall be imposed and collected for sewage and disposal services furnished to all premises connected to the sewerage system of the city, as follows:

(1) *Service demand charge.* A service demand charge based on the water meter size servicing an individual dwelling or premises shall be collected from each sewer system customer.

Meter Size	Service demand charge per month	
	Effective 1-1-2001	Effective 1-1-2002
5,8>" <frac{3,4}"	\$ 5.66	\$ 6.67
"	7.69	9.24
1"	11.76	14.38
1"	15.82	19.53
1"	21.91	27.24
2"	34.10	42.67
3"	66.62	83.82
4"	113.34	142.97
6"	225.10	284.42
8"	374.01	438.72

(2) *Commodity charge.* A commodity charge based upon the water meter readings or wastewater meter readings shall be collected from each sewerage system customer each month.

Effective 1-1-2001	Effective 1-1-2002
\$3.09 per thousand gallon	\$3.39 per thousand gallon

(3) *Double rates and charges.* Nonresident users shall pay, in lieu of city taxes, double the rates and charges herein provided.

(4) *Service demand charges for master meters.* Where more than one premises or dwelling is served

through one or more master meters, the service demand charge for sewerage disposal services to such premises or dwelling shall be computed as follows:

The city manager will determine the water meter size that would properly serve each premises or dwelling served by the master meter. The service demand charge for each of the several dwellings or premises will be added together and shall constitute the service demand charge for the master meter. A minimum service demand charge for a 5/8" by 3/4" meter is applicable for each premises or dwelling served by the master meter.

- (5) *Penalties for unpaid charges.* There shall be a service charge of five percent of the sewage disposal services bill added to any bill not paid by the 20th of the month in which payment is due together with a penalty of one percent of the unpaid charges for each month such charges remain unpaid.
- (6) *Summer sprinkling adjustment.* The commodity charge for sewer service calculated in subsection (2) of this section will be adjusted from customers that are single-family homes to allow for summer sprinkling of lawns. During the months that have a summer sprinkling adjustment, the monthly commodity charge for single-family customers will be collected based on the lower of the actual meter reading and the calculated average monthly nonpeak water usage. The monthly nonpeak water usage will be determined by adding the water used for each month from October through April divided by the number of months.
- (7) *Surcharges.*
 - a. BOD surcharges (for all BOD exceeding 300 mg/l) \$0.14 per pound suspended solids (for all suspended solids exceeding 250 mg/l) \$0.13 per pound.
 - b. Phosphorus surcharges (for all phosphorus exceeding 9 mg/l) \$1.80 per pound.
 - c. Excess limitations surcharge (for all other discharges exceeding limitations in section 40-122).

The user shall pay to the city its actual cost incurred as a result of discharges exceeding said limitations, plus a ten percent administrative fee including, but not limited to, labor and materials, equipment, supplies, contracted services, and monitoring fees.

- (8) *Nondomestic monitoring fee.* The city may monitor the discharge of any non-domestic user to the wastewater system based upon the nature and operation of the business, quantity or quality of flow, chemical usage, and potential for harm to the public health or the proper operation of the wastewater system. All samples shall be monitored as determined by the city manager for those priority pollutants or critical materials used. The analytical and sample fees to be charged for monitoring shall be based upon the out-of-pocket expenses incurred by the city plus ten percent for administrative fees or based upon the current city laboratory schedule where appropriate when analytical work is completed at the city laboratory. The city shall update the city laboratory price schedule as required to reflect costs and the laboratory schedule updates shall be approved by city council's resolution.

(9) *Rate discount; senior citizens.*

- a. The rate charged for sewer service to senior citizen consumers shall be the same as that provided for all other consumers within the limits of the city. However, any qualified senior citizen as hereinafter defined whose application shall have been filed with and approved by the city clerk shall receive a discount of 50 percent of their total sewer service charge per month with a maximum discount of \$4.00 per month for sewer service used at their homestead.
- b. Senior citizen means an individual (or couple that files a joint tax return under Public Act No. 281 of 1967 (MCL 206.1 et seq.) who is 65 years of age or older and whose household income did not exceed \$12,000.00 for the preceding taxable year, or whose estimated household income for the present taxable year will not exceed \$12,000.00, as of the date the application is filed for a senior citizen discount.
- c. Homestead means any dwelling or residential unit in a multiple dwelling, owned and occupied as a home by the owner thereof or occupied as the dwelling of the renter or lessee; provided, such rented or leased dwelling unit includes a water meter registered with the city in the name of the senior citizen occupying said dwelling. A mobile home or trailer coach in a trailer park may be homestead.
- d. Household means a claimant and spouse and all other persons residing therein.
- e. Household income means all income received by all persons in a household in a tax year while they were members of the household, including, but not limited to, unemployment compensation, aid to dependent children, food stamps.
- f. Owner means a natural person who owns or is purchasing a homestead under a mortgage or land contract or who owns or is purchasing a dwelling situated on the leased lands of another.
- g. Persons eligible to qualify for a senior citizen discount may file with the city clerk an application for such discount, which shall be in affidavit form as provided by the city manager. Application may be filed at any time and must be updated on a regular basis.
- h. The application for senior citizen discount shall thereafter be open to public inspections. Any person knowingly and willfully making a false affidavit for the purpose of qualifying for a senior citizen sewer rate discount shall be guilty of a misdemeanor punishable as provided under this Code.

(10) *Franchise fee.* Any and all franchise fees the city may incur as a result of entering into a consent and/or franchise agreement with any township for the consent, right and authority to use rights-of-way or to provide sanitary sewer service in that township, shall be passed on and charged to all users of the sanitary sewer services on the property to which the franchise fees apply.

(Code 1972, § 25.101; Ord. No. 90A, § 1:01, eff. 7-1-1985; Ord. No. 90B, eff. 5-5-1988; Ord. No. 90-C, eff. 12-1-1994; Ord. No. 90-E, eff. 3-31-1998; Ord. No. 90-F, eff. 12-13-2000; Ord. No. 90-H, eff. 7-3-2002; Ord. No. 90-I, § 1(25.101), eff. 7-15-2005)

Sec. 40-185. Manner of payment.

The rates and charges herein provided shall be due and payable and shall be billed and collected at the same time and in the same manner, and shall be enforceable in the same manner and be subject to the same penalties, as presently provided by city ordinance or resolution.

(Code 1972, § 25.102; Ord. No. 90A, § 1:02, eff. 7-1-1985)

Sec. 40-186. Delinquent payment for services; other remedies.

(a) In addition to other remedies provided, the city shall have the right to shut off and discontinue the supply of water to any premises or prohibit the discharge of any wastewater to the treatment system for the nonpayment of sewer charges when due. In the event sewer charges for services furnished to any premises are not paid within ten days after the due date thereof, sewer service to said premises shall be shut off and discontinued and shall not be restored until all such charges, penalties, fees and restoration charges have been paid.

(b) In no case shall the city be liable for damages for failure to supply water or sewer services.

(c) Any sewer services bill not paid when due may be recovered by the city in an action at law, or the amount may be certified to the tax assessor, assessed against the realty to which the sewage service was rendered and thereafter collected as any municipal taxes on realty are collected and shall be a lien on the property until paid.

(Code 1972, § 25.103; Ord. No. 90A, § 1:03, eff. 7-1-1985)

Secs. 40-187--40-210. Reserved.

ARTICLE IV.

ELECTRICAL SYSTEM

Sec. 40-211. Definitions.

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

Electric light system means and includes all plants, works, instrumentalities and properties (as the same shall from time to time exist) used or useful in connection with the generating of electricity and/or the distribution of the same, by the city.

Net revenues means the revenues of said electric light system after deducting the reasonable expenses of administration, operation and maintenance thereof.

Project means the improvements, enlargements and extensions to be acquired pursuant to this article.

Revenues means all the income derived from charges made for the services, facilities and commodities furnished by said electric light system.

System means the electric light system of the city.

Trustee means the corporation from time to time acting as trustee under the mortgage securing the bonds herein authorized.

(Code 1972, § 30.701; Ord. No. 62, § 1, eff. 6-8-1949)

Sec. 40-212. Supervision by city manager.

The operation, maintenance and management of the system shall be under the immediate supervision of the city manager, subject to such powers and control in relation thereto as are lodged in the council by the city Charter.

(Code 1972, § 30.709; Ord. No. 62, § 9, eff. 6-8-1949)

Sec. 40-213. Metered monthly charges.

Except as otherwise provided herein, electricity for each type of service to be furnished by the electrical system of the city to each premises, shall be measured by a meter installed and controlled by the city. Charges for electricity to each premises for each monthly period for the several types of services shall be as set forth in sections 40-214--40-219.

(Code 1972, § 30.710)

Sec. 40-214. Rate schedule 1; residential service.

(a) *Availability.* The residential service rate shall be available in all territory served by the city, in accordance with the city's service rules and regulations.

(b) *Applicability.* This rate shall be applicable only for residential use and for use incidental thereto supplied through one meter to each individual dwelling unit. The capacity of individual motors served under this schedule shall not exceed ten horsepower.

(c) *Type of service.* The type of service shall be single-phase, 60 hertz, at 120/240 nominal volts.

(d) *Monthly rate.* The monthly rate shall be as follows:

Customer charge	\$3.85 per month
First 600 KWH or less @	6.7¢ per KWH
Over 600 KWH per month @	5.80¢ per KWH

(e) *Monthly minimum.* There shall be a monthly minimum charge of \$3.85 imposed upon each user.

(f) *Power cost adjustment.* The above rate shall be increased or decreased subject to the provisions of the city's power cost adjustment schedule PCA.

(g) *Terms of payment.* The bill is due upon receipt and payable by the 20th of the month following the date of mailing. After the 20th of each month the bill is delinquent. A delayed payment charge of five percent of the total net bill shall be added to delinquent bills.
Ord. No. 101A, eff. 9-2-1979; Ord. No. 101B, eff. 3-2-1980; Ord. No. 101C, eff. 8-5-1982; Ord. No. 101D, eff. 4-7-1988)

Sec. 40-215. Rate schedule 2; general service "GS."

(a) *Availability.* The general service rate shall be available in all territory served by the city in accordance with the city's service rules and regulations.

(b) *Applicability.* This rate shall be applicable to all electric service where the load requirements can be met by transformers having a capacity not to exceed 100 KVA. Service under this schedule shall be of standard secondary voltage, delivered at one point and through one meter. Applicable to primary voltage service provided the customer furnishes all necessary transforming equipment. This schedule shall not be available for emergency or standby service. Applicability of this schedule to city accounts shall be at the discretion of the city.

(c) *Type of service.* The type of service shall be single-phase or multiphase, 60 hertz, at standard voltage.

(d) *Monthly rate.* The monthly rate shall be as follows:

Customer charge	\$10.00 per month
First 300 KWH per month @	9.0¢ per KWH
Next 700 KWH per month @	8.0¢ per KWH
Next 1,000 KWH per month @	7.0¢ per KWH
Over 2,000 KWH per month @	6.0¢ per KWH

(e) *Monthly minimum.* There shall be a monthly minimum charge of \$10.00 imposed upon each user.

(f) *Primary service.* A discount of three percent shall be applied to the charges in this schedule when primary metering is used.

(g) *Power cost adjustment.* The above rates shall be increased or decreased subject to the provisions of the city's power cost adjustment schedule PCA.

(h) *Terms of payment.* The bill is due upon receipt and payable by the 20th of the month following

the date of mailing. After the 20th of each month the bill is delinquent. A delayed payment charge of five percent of the total net bill shall be added to delinquent bills.
 (Code 1972, § 30.710.2; Ord. No. 62, § 10.2, eff. 6-8-1949; Ord. No. 101, eff. 2-8-1974; Ord. No. 101A, eff. 9-2-1979; Ord. No. 101B, eff. 3-2-1980; Ord. No. 101C, eff. 8-5-1982; Ord. No. 101D, eff. 4-7-1988)

Sec. 40-216. Rate schedule 3; large general service "LGS."

(a) *Availability.* The large general service rate shall be available in all territory served by the city, in accordance with the city's service rules and regulations.

(b) *Applicability.* This rate shall be applicable to all electric service where the load requirements make necessary transformers having a capacity in excess of 100 KVA. This schedule shall not be available for emergency or standby service, nor for resale service. Applicability of this schedule to city accounts shall be at the discretion of the city.

(c) *Type of service.* The type of service shall be multiphase, 60 hertz, at standard voltage.

(d) *Monthly rate.* The monthly rate shall be as follows:

Service charge	\$17.50 per month
All KW of billing demand @	\$5.90 per KW
First 200 KWH per KW of billing demand @	4.20¢ per KWH
Over 200 KWH per KW of billing demand @	2.80¢ per KWH

(e) *Monthly minimum.* The monthly minimum shall be as follows:

- (1) Contract minimum;
- (2) \$1.00 per KVA of transformer capacity; and
- (3) Demand charge.

(f) *Primary metering.* A discount of three percent shall be applied to the demand and energy charges when primary metering is used.

(g) *Billing demand.* The billing demand shall be based on the highest 15-minute KW measurements during the current month and the preceding 11 months. The billing demand shall be the greater of:

- (1) One hundred percent of the current actual demand; or
- (2) Sixty percent of highest demand occurring in the preceding 11 months.

(h) *Power factor adjustment.* The customer agrees to maintain unity power factor as nearly as practicable. Where the average power factor of a customer's load is less than 0.800 lagging, the city may require

the customer to install, at customer's expense, equipment to correct the power factor; or, the demand charge will be increased by the ratio that 0.800 bears to the customer's average power factor during the billing period.

(i) *Power cost adjustment.* The above rates shall be increased or decreased subject to the provisions of the city's power cost adjustment schedule PCA.

(j) *Terms of payment.* The bill is due upon receipt and payable by the 20th of the month following the date of mailing. After the 20th of each month the bill is delinquent. A delayed payment charge of five percent of the total net bill shall be added to delinquent bills.

(Code 1972, § 30.710.3; Ord. No. 62, § 10.3, eff. 6-8-1949; Ord. No. 101, eff. 2-8-1974; Ord. No. 101A, eff. 9-2-1979; Ord. No. 101B, eff. 3-2-1980; Ord. No. 101C, eff. 8-5-1982; Ord. No. 101D, eff. 4-7-1988)

Sec. 40-217. Rate schedule 4; security lighting "SL."

(a) *Availability.* This rate is available to any customer served by the city for dusk to dawn lighting of customer's premises. All lights will be furnished and maintained by the city and will be installed from existing or new poles at locations accessible to the city's construction and maintenance equipment.

(b) *Monthly rate.* For each lamp with luminaire and an upsweep mast arm or other necessary brackets, controlled by photoelectric relay, where service is supplied from an existing wooden pole.

	Effective Jan. 1, 1997	Effective Jan. 1, 1998
<i>Mercury Vapor</i>		
175-watt	\$ 6.25	\$ 6.35
400-watt	12.50	12.70
<i>High Pressure Sodium</i>		
100-watt	6.25	6.35
150-watt	7.25	7.35
250-watt	12.50	12.70
400-watt	14.00	14.15
1,000-watt	27.00	27.30
<i>Metal Halide</i>		
100-watt	6.50	6.65
175-watt	8.00	8.25
250-watt	13.00	13.25
400-watt	14.00	14.50
1,000-watt	27.00	27.30
1,500-watt	32.00	32.50

The charges above include basic facilities as to be determined by the city.

(c) *Additional facilities charge.* In the event facilities in addition to the basic facilities provided by the city and included in the above charges are required to provide requested service, the city will add a monthly facilities charge to the monthly rates stated above. Additional facilities may include additional poles or variations of types of poles and/or fixtures. The additional monthly facilities charge shall be equal to 0.015 times the total cost of the facilities including installation that exceed the cost of the basic facilities included in the above stated rates. In lieu of the additional monthly facilities charge, a customer may elect to pay an up-front nonrefundable contribution-in-aid-of-construction equal to the additional cost of the facilities including installation that exceed the cost of the basic facilities included in the above stated rates.

(d) *Terms of payment.* The bill is due upon receipt and payable within 15 days following the date of mailing. After 15 days from the date of mailing the bill becomes delinquent. A delayed payment charge of five percent of the total net bill shall be added to delinquent bills.

(e) *Service contract.*

(1) A written service agreement shall be entered into for a term determined as follows:

a. One year, if additional facilities are not required; or

b. Five years, if additional facilities are required.

(2) The city may, at its discretion, waive the one-year term requirement for service where additional facilities are not required.

(3) In the event a customer discontinues service before the end of the agreement term, an abandonment penalty will immediately become due and payable. The abandonment penalty will be equal to any remaining balance of the total cost of the lighting facilities less any amount collected during the term of the agreement via the additional facilities charge.

(Code 1972, § 30.710.4; Ord. No. 62, § 10.4, eff. 6-8-1949; Ord. No. 101, eff. 2-8-1974; Ord. No. 101A, eff. 9-2-1979; Ord. No. 101B, eff. 3-2-1980; Ord. No. 101C, eff. 8-5-1982; Ord. No. 101D, eff. 4-7-1988; Ord. No. 101-F, eff. 12-2-1996)

Sec. 40-218. Schedules; city street lighting "CSL."

(a) *Availability.* This rate shall be available only to the city for street lighting and city owned parking lot lighting.

(b) *Monthly rate.*

ENERGY CHARGE

\$0.083 per KWH

(c) *Hours of lighting.* All lamps shall burn from approximately one-half hour after sunset until approximately one-half hour before sunrise, every night and all night, or approximately 4,000 hours per year.

(d) *Ownership of equipment.* All equipment necessary for service including fixtures, controls, poles, transformers, secondaries, lamps, and the appurtenances shall be owned and maintained by the city. All service and necessary maintenance will be performed only during the regularly scheduled working hours of the city.

(Code 1972, § 30.710.5; Ord. No. 62, eff. 6-8-1949; Ord. No. 101, eff. 2-8-1974; Ord. No. 101A, eff. 9-2-1979; Ord. No. 101B, eff. 3-2-1980; Ord. No. 101C, eff. 8-5-1982; Ord. No. 101D, eff. 4-7-1988)

Sec. 40-219. Schedule "PCA;" power cost adjustment clause.

Each month the amount charged for electric energy sold by the city shall be increased or decreased in accordance with the following formula:

P	=	$\frac{\text{COST} \pm \text{COR}}{\text{KWH}}$	-	\$0.03400 / (1-L)
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WHERE:

P	=	Power cost adjustment factor
Cost	=	The sum of actual wholesale power cost from Consumers Power Company and Michigan Public Power Agency and production cost to the city for operation and maintenance expense, fuel, and other cost to own and operate generation for the three most previous months.
Cor	=	An amount equal to a correction for over or under collection of cost of the three most previous months.
KWH	=	The sum of the KWH generated by the city and the KWH purchased from Consumers Power Co. and Michigan Public Power Agency for the three most previous months.
L	=	System losses for the three most previous months.

(Code 1972, § 30.710.6; Ord. No. 62, § 10.6, eff. 6-8-1949; Ord. No. 101, eff. 2-8-1974; Ord. No. 101A, eff. 9-2-1979; Ord. No. 101B, eff. 3-2-1980; Ord. No. 101C, eff. 8-5-1982; Ord. No. 168, eff. 10-5-1987; Ord. No. 101D, eff. 4-7-1988; Ord. No. 101E, eff. 4-13-1995; Ord. No. 101-G, eff. 4-10-1997)

Sec. 40-220. Effective date of rates.

The rates as set forth herein shall be effective for all electrical energy usage after April billing and shall be billed, May, 1988, notwithstanding that the ordinances may take effect before such date.

(Code 1972, § 30.710A; Ord. No. 62, § 10A, eff. 6-8-1949; Ord. No. 101, eff. 2-8-1974; Ord. No. 101A, eff. 9-2-1979; Ord. No. 101B, eff. 3-2-1980; Ord. No. 101C, eff. 8-5-1982; Ord. No. 101D, eff. 4-7-1988)

Sec. 40-221. Billing and collecting.

The rates and charges herein provided shall be due and payable and shall be billed and collected as provided herein and as may be implemented by the city service rules and regulations.

(Code 1972, § 30.711; Ord. No. 62, § 11, eff. 6-8-1949; Ord. No. 101, eff. 2-8-1974; Ord. No. 101A, eff. 9-2-1979; Ord. No. 101B, eff. 3-2-1980)

Sec. 40-222. State sales tax.

Each rate herein is subject to the state sales tax which tax shall be added to the monthly bill and collected by the city at the time of payment of said bill. It shall not be necessary to show the tax as a separate item on the monthly utility bill.

(Code 1972, § 30.712; Ord. No. 62, § 12, eff. 6-8-1949; Ord. No. 101, eff. 2-8-1974)

Sec. 40-223. No free service.

No free service shall be furnished by the system to the city or to any person, firm or corporation, public or private, or to any public agency or instrumentality. Charges for services by the system shall be billed and collected monthly. Such charges shall become due at such times, not exceeding 25 days after the reading of the meter, as shall be established by resolution of the council. In the event that the charges for electricity furnished to any premises shall not be paid within 30 days after the due date thereof, then electric service to such premises shall be discontinued. Services so discontinued shall not be restored until all sums then due and owing, including penalties, shall be paid, plus a shut-off charge of \$2.50 and a turn-on charge of \$2.50. Charges against the city for street lighting and for other electricity furnished to it, shall be payable in monthly installments for the current funds of the city or from the proceeds of taxes which the city shall levy in an amount sufficient for that purpose.

(Code 1972, § 30.713; Ord. No. 62, § 13, eff. 6-8-1949)

Sec. 40-224. Rates; provisions.

The rate hereinbefore established is estimated to be sufficient to provide for the payment of the expenses of administration and operation of the system and such expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order; to provide for the payment of the interest upon and the principal of all bonds payable therefrom, as and when the same shall become due and payable, and for the creation of a reserve for the payment of said principal and interest as required in this article; and to building up a fund for major repairs and replacements to the system as provided in this article. Rates shall be fixed and revised from time to time by the council so as to produce the foregoing amounts, and the city covenants and agrees to maintain at all times such rates for services furnished by the system as shall be sufficient to provide for the foregoing.

(Code 1972, § 30.714; Ord. No. 62, § 14, eff. 6-8-1949)