

Chapter 34

UTILITIES AND SERVICES*

* **Charter References:** Public utility services, Ch. 15.

Cross References: Administration, Ch. 2; cable television, Ch. 9; fire prevention and protection, Ch. 13; flood protection, Ch. 14; nuisances, Ch. 18; planning, Ch. 23; subdivision regulations, Ch. 30.

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ARTICLE I.

IN GENERAL

Secs. 34-1--34-15. Reserved.

ARTICLE II.

GARBAGE AND RUBBISH*

* **Editors Note:** Ord. No. 563, § 1, adopted August 18, 1997, has been treated as repealing Art. II, §§ 34-16 and 34-31--34-50, in its entirety, and adding a new Art. II, §§ 34-16 and 34-39--34-50. Former Art. II pertained to similar subject matter and derived from the Code of 1977, §§ 2.1--2.8, and 2.9(1)--(8), (10)--(12); and Ord. No. 356, adopted March 3, 1980.

Cross References: Waste materials and litter on premises having mechanical and electronic amusement devices, § 4-155; littering and distribution of handbills, § 18-46 et seq.; solid waste disposal for outdoor assemblies, § 20-29(7); litter on streets, § 29-136 et seq.

State Law References: Authority to regulate disposal of garbage and rubbish, MCL 123.241 et seq., 123.361 et seq.

DIVISION 1.

GENERALLY

Sec. 34-16. 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:

Approved incineration and *approved garbage grinder* shall mean incinerators and garbage grinders respectively, which conform in all respects to the requirements for incinerators and garbage grinders contained in the building code of the city.

Ashes means the residue from the burning of wood, coal, coke or other combustible materials.

Garbage means rejected food wastes including waste accumulation of animal, fruit or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables.

Recyclable materials means post-consumer waste materials collected with the intent of providing for their eventual reuse in the manufacture of other products.

Refuse means putrescible and nonputrescible solid wastes, except body wastes and recyclable materials and includes garbage, rubbish and ashes.

Rubbish means nonputrescible solid wastes, excluding ashes and recyclable materials, consisting of both combustible or noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, grass, bedding, crockery or litter of any kind that will be a detriment to the public health and safety.

Vehicle means any automobile, truck, trailer, semi-trailer, tractor, any self-propelled or mechanically driven vehicle or any vehicle in anywise attached to or connected or drawn by any self-propelled or mechanically driven vehicle or any conveyance, whether self-propelled or mechanically driven, used for the transportation of garbage or rubbish.

(Ord. No. 563, § 1, 8-18-97)

Cross References: Definitions and rules of construction generally, § 1-2.

Secs. 34-17--34-38. Reserved.

DIVISION 2.

COLLECTION

Sec. 34-39. Rules, regulations.

The city manager shall make such rules and regulations governing refuse collection, transportation and disposal as may be deemed necessary.
(Ord. No. 563, § 1, 8-18-97)

Sec. 34-40. Reserved.

Sec. 34-41. Receptacles--Generally.

No person shall operate, use or cause to be driven or used upon the streets, alleys or public ways of the city, any vehicle transporting or delivering any refuse unless the same is so carried, carted or conveyed in an appropriate receptacle, which receptacle shall be covered at all times with a suitable cover. Any receptacle so used shall not be made of wood and shall always be kept in a clean condition. Any person transporting any refuse shall securely cover and secure the load so that no part of the load shall be lost while being transported.
(Ord. No. 563, § 1, 8-18-97)

Sec. 34-42. Reserved.

Sec. 34-43. Owner's duty as to refuse.

(a) It shall be the duty of the owner, occupant, or person in charge of any dwelling, house, store or other business establishment, manufacturing company or other building where refuse accumulates to provide approved refuse receptacles, to cause to be placed therein refuse or other waste material created or accumulated on the premises owned or controlled by him or her, and to provide for the collection or disposal of such refuse or waste material on such regular basis as is necessary to avoid the creation of a public nuisance.

(b) Except as permitted in section 34-49, it shall be unlawful for any person to place or maintain containers for garbage, waste, rubbish or debris of any nature in front of a residence or structure or in the area from the front of the residence or structure to the center of the roadway, and if on a vacant lot, then not closer than thirty (30) feet back from the lot line at the street.

(c) All rates and charges for the use of garbage or refuse service under the provisions of this division shall be determined by contractual agreement between the citizen using the garbage and rubbish collection service and the provider of the garbage and rubbish collection service.
(Ord. No. 563, § 1, 8-18-97)

Sec. 34-44. Construction wastes.

It shall be the duty of the owner, contractor or other person responsible for construction work to remove from the premises within a reasonable time after completion of such construction work, all surplus construction material and refuse building material. Such materials shall be disposed of in accordance with the provisions of this article.

(Ord. No. 563, § 1, 8-18-97)

Sec. 34-45. Uncollectible refuse.

It shall be unlawful for any person to place in any receptacle for collection any material that might either endanger the collection personnel or that would be detrimental to the normal operation of disposal such as gaseous, solid or liquid poisons, dead animals, ammunition, explosives or any material that possesses heat sufficient to ignite any other collected materials.

(Ord. No. 563, § 1, 8-18-97)

Sec. 34-46. Refuse littering and accumulation.

No paper, lawn cuttings, or rakings, leaves, weeds, ashes or any other refuse material whatsoever shall be thrown or swept into any street, gutter, intake, alley, vacant lot, park, greenbelt, or other property whether public or private. It shall be the duty of every tenant, lessee, owner or occupant of any property at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of materials other than those ordinarily attendant upon the day to day use for which the premises are legally intended. It shall be unlawful to bury any animal or vegetable wastes anywhere in the city and it shall be unlawful to deposit, throw, or leave refuse on the premises of any other person.

(Ord. No. 563, § 1, 8-18-97)

Sec. 34-47. Disposal of refuse.

No person shall dispose of any garbage within the city other than in accordance with the provisions of this article.

(Ord. No. 563, § 1, 8-18-97)

Sec. 34-48. Accumulation and disposal of refuse.

Any refuse accumulated or stored outside of a dwelling or building on any premises, shall be stored in receptacles meeting the requirements of this article. No rubbish may be stored or accumulated which is contaminated by any garbage, unless stored as garbage. Refuse shall be disposed of only to a refuse collector, except that any person may dispose of his or her own refuse as follows:

- (1) By an approved incinerator or approved garbage grinder located within a building.
- (2) Where such refuse consists wholly of material which will burn readily without objectionable odor, by outside incineration, but only in approved containers located in a safe place at least twenty-five (25) feet from any structures or property line. No person shall burn any rubbish, except leaves, within thirty (30) feet of any street line. On any premises where any building or structure exists, no rubbish, except leaves, shall be burned in any part of the front yard or in any side yard abutting on any street. The terms "front yard" and "side yard" shall have the meanings defined in section 38-5.
- (3) By transporting the same to a solid waste transfer facility or state-licensed landfill, but only in accordance with the rules and regulations pertaining thereto.

- (4) Where such refuse consists of putrescible solid waste, by composting in such a manner as to minimize the creation of objectionable odors and the attraction of animals.

(Ord. No. 563, § 1, 8-18-97)

Sec. 34-49. Refuse collection--Residential collection.

The following rules and regulations shall apply to residential refuse collection in the city:

- (1) The type of service to be desired by the resident may be either back or side door pick-up or curb side pick-up.
- (2) If curb side pick-up is selected by the resident, refuse is to be placed inside the curb so that the same shall not in any way be in the traffic portion of the street, and shall be placed inside the curb for pick-up on the morning of collection in residential areas. Any containers belonging to the resident that are left at the curb after collection of refuse are to be removed to the back or side yard on or before 12:00 midnight, of the day of collection. Materials left at the curb for pick-up must be in city-approved containers. The responsibility of compliance with the provisions of this section shall be with the property owner or person placing refuse at the curb. Any violator of the provisions of this section will be immediately ticketed by the police department.
- (3) Collection shall be conducted on the following prescribed routes and schedules and no collection shall be allowed on any dates other than those set forth below:
 - a. Tuesday--South of M-21
 - b. Thursday--North of M-21

Collection shall begin no earlier than 7:00 a.m., and finished no later than 6:00 p.m., on the day of collection.

Non-work holidays will move the schedule back one day during those weeks, with Saturday added as a day of pick-up.

- (4) Collections shall be made once each week for each customer.
- (5) Quantity of material to be collected shall be limited only by the arrangement the resident has with his or her collector.

(Ord. No. 563, § 1, 8-18-97; Ord. No. 699, § 1, 7-7-08)

Sec. 34-50. Same--Commercial, multiple residential collection.

Refuse collection from commercial or multiple residential or other establishments using collector-owned containers shall be the responsibility of the owner of the establishment. The following rules and regulations shall apply to this type of collection:

- (1) Containers shall remain covered at all times.
- (2) Sufficient containers shall be required so that no overflowing shall occur.
- (3) Containers shall be kept clean and odor free.
- (4) All putrescible material shall be in tightly sealed plastic bags before being placed in containers.
(Ord. No. 563, § 1, 8-18-97)

Secs. 34-51--34-65. Reserved.

ARTICLE III.

WATER*

* **Cross References:** Plumbing code, § 8-101 et seq.; water facilities for outdoor assemblies, § 20-29(2).

Sec. 34-66. 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:

City water distribution system shall mean all mains, connections, pipes, meters, hydrants and appurtenances connected with or served by the city water system.

Service connection shall mean a connection serving a single water customer consisting of one (1) water connection, one (1) curb stop and one (1) meter.

Water connection shall mean that part of the city water distribution system connecting the water main with the premises served.

Water main shall mean that part of the city water distribution system located within easement lines or streets designed to supply more than one (1) water connection.

(Code 1977, § 2.21)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 34-67. Water service connections, connection charges.

(a) Application for water service connection(s) shall be made to the public utilities department on forms prescribed and furnished by it. Water service connections and water meters shall be installed, maintained and replaced in accordance with applicable rules and standards of the public utilities department and applicable plumbing code provisions. The size of the service line and meter, and installation details, are subject to review and approval by the director.

(b) The city shall be responsible for the installation, maintenance and replacement in like size of that portion of the water connection from the water main to and including the curb stop and stop box, or through the

water meter pit if the meter is located in a pit in the public right-of-way or water easement. The property owner or customer shall be responsible for the installation, maintenance and replacement of that portion of the water connection from the curb stop, or meter pit if such meter pit is located in the public right-of-way or water easement, to and within the premises being served.

(c) Water meters shall generally be supplied by the city. Any water meter provided by the customer shall conform to city standards and specifications, and shall be approved by the director prior to installation or start of service. All meters shall be owned by and under the control of the city. The city shall be responsible for the cost of meter replacement except in the case of a customer requested change in meter size, or damage to the meter attributable to the customer, or agent or tenant of the customer.

(d) Connection charges for new water service connections, or for an increase in service size or capacity, in effect on the effective date of this ordinance shall remain in effect until changed by resolution of the council, which may thereafter be modified or revised by council resolution. Such connection charges may include: recovery of costs for water system capacity attributable to the new user, recovery of costs for water distribution piping serving the user if not previously assessed, recovery of city costs for the initial installation of the service connection and initial provision of the water meter, and recovery of city costs for increasing the service connection and/or meter size. In addition the connection charge schedule may include permit application and review fees, and inspection fees.

(Code 1977, § 2.22; Ord. No. 670, § 1, 12-5-05)

Sec. 34-68. Turning on water service.

No person, other than an authorized employee of the public services department, shall turn on or off any water service, except that a licensed plumber may turn on water service for testing his or her work (when it must be immediately turned off) or upon receiving written order from the department, provided, that upon written permit from the department, water may be turned on for construction purposes only, prior to the granting of a certificate of occupancy for the premises, and upon payment of the charges applicable thereto, which shall include the connection fee, meter installation fee and deposit.

(Code 1977, § 2.23)

Sec. 34-69. Water meters.

All premises using water shall be metered. No person, except a public services department employee shall break or injure the seal or change the location of, alter or interfere in any way with any water meter. The public services director, with the approval of the city manager, may authorize service on flat rate charges where it is not practical to install a meter.

(Code 1977, § 2.24)

Sec. 34-70. Meter location.

Meters shall be set in an accessible, inside location, and in a manner satisfactory to the public services director. Where the premises contain no basement or cellar, the meter shall be installed outside in a meter pit or box, the location of which shall be approved by the director. Where it is necessary to set the meter in a pit or box, such pit or box shall be built at the expense of the owner as directed by the director. Owners who refuse to allow an inside water meter installation shall pay a monthly surcharge in an amount to be determined by the

director.

(Code 1977, § 2.25; Ord. No. 403, § 1, 2-21-83)

Sec. 34-71. Access to meters.

The public services department shall have the right to shut off the supply of water to any premises where the department is not able to obtain access to the meter. Any qualified employee of the department shall at all reasonable hours, have the right to enter the premises where such meters are installed for the purpose of reading, testing, removing or inspecting same and no person shall hinder, obstruct, or interfere with such employee in the lawful discharge of his or her duties in relation to the care and maintenance of such water meter.

(Code 1977, § 2.26)

Sec. 34-72. Reimbursement for damage.

Any damage which a meter may sustain resulting from carelessness of the owner, agent, or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water, or steam backing from a boiler, shall be paid by the owner of the property to the city on presentation of a bill which shall be based on time and materials, and shall be collected as specified in article V of this chapter for the collection of service charges.

(Code 1977, § 2.27)

Sec. 34-73. Meter failures.

If any meter shall fail to register properly, the public services department shall estimate the consumption on the basis of former consumption and bill accordingly.

(Code 1977, § 2.28)

Sec. 34-74. Inaccurate meters.

A consumer may require that the meter be tested. If the meter is found accurate, a charge as prescribed by resolution of the council will be made. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge shall be made.

(Code 1977, § 2.29)

Sec. 34-75. Accuracy required.

A meter shall be considered accurate if, when tested it registers not to exceed five (5) percent more or five (5) percent less than the actual quantity of water passing through it. If a meter registers in excess of five (5) percent more than the actual quantity of water passing through it, it shall be considered "fast" to that extent. If a meter registers in excess of five (5) percent less than the actual quantity of water passing through it, it shall be considered "slow" to that extent.

(Code 1977, § 2.30)

Sec. 34-76. Bill adjustment.

If a meter has been tested at the request of a consumer and shall have been determined to register "fast,"

the city shall credit the consumer with a sum equal to the percent "fast" multiplied by the amount of all bills incurred by the consumer, within the three (3) months prior to the test, and if a meter so tested is determined to register "slow," the public services department may collect from the consumer a sum equal to the percent "slow" multiplied by the amount of all the bills incurred by the consumer for the prior three (3) months. When the department on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than his or her paying the amount due the city for water used by him or her as above provided, if the meter is found to be "slow."

(Code 1977, § 2.31)

Sec. 34-77. Hydrant use.

No person shall open or use any fire hydrant connected with the city water distribution system unless duly authorized by the city to do so nor in any case for other than a public purpose.

(Code 1977, § 2.32)

Sec. 34-78. Water emergency orders.

(a) The city manager may regulate, limit or prohibit the use of water for any purpose. Such regulations shall restrict less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial needs and for firefighting. No such regulation, limitation or prohibition shall be effective until twenty-four (24) hours after the publication thereof in a newspaper of general circulation in the city. Any person violating any such rule or regulation shall, upon conviction thereof, be punished as prescribed in section 1-8.

(b) In addition, the city manager may order that the water service to the premises of any person refusing to comply with water emergency regulations be shut off for a period not longer than ten (10) days.

(Code 1977, § 2.33)

Sec. 34-79. Additional regulations.

The city manager may make and issue additional rules and regulations concerning the water distribution system, connections thereto, meter installations and maintenance, connection and meter installation fees, hydrants and water mains and the appurtenances thereto, not inconsistent herewith. Such rules and regulations shall be effective upon approval by the council. The rules and regulations now in effect shall continue until changed in accordance with this section.

(Code 1977, § 2.34)

Sec. 34-80. Injury to facilities.

No person, except an employee of the city in the performance of his or her duties shall wilfully or carelessly break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the city water distribution system.

(Code 1977, § 2.35)

State Law References: Malicious mischief, MCL 750.377 et seq.

Sec. 34-81. Rules, regulations and fees.

The following rules, regulations and fees shall apply to water services in the city:

- (1) All costs of changing the meter size in any existing installation shall be borne by the customer.
- (2) All meters of sizes one (1) inch or larger shall be provided with by-pass valves.
- (3) Investigation of abnormally high consumption by public services department personnel shall terminate at the meter unless the customer requests further investigation beyond the meter and agrees in advance to pay labor charges for such further work.
- (4) Service costs shall be established by council resolution.

(Code 1977, § 2.36; Ord. No. 374, § I, 4-20-81)

Sec. 34-82. Water supply cross connection rules.

(a) 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, are adopted by reference as part of this article.

(b) 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 is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the public services department and as approved by the state department of environmental quality.

(c) A 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.

(d) The public services department of the city is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this article 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(s) has been eliminated in compliance with the provisions of this article.

(e) All testable backflow prevention devices shall be tested initially upon installation to assure the device is working properly. Subsequent testing of devices shall be conducted at the time interval specified by the public services department and in accordance with requirements of the state department of environmental quality and the state plumbing code. The owner of the water service and device shall be responsible for testing and maintenance or replacement of the device. Device testing is to be done by an individual approved by the public services department. Approval is to be based on evidence of proper training, equipment, and certification as required and issued by the state. The approved tester shall certify the device test results to the public services department on forms provided or approved by the department.

(f) 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 article 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**

(g) This article does not supersede, but is supplementary to, the state plumbing code.
(Code 1977, § 2.37; Ord. No. 674, § 1, 6-19-06)

Sec. 34-83. Violations.

(a) Any person found to be violating any provision of this article shall be served by the public services director with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) A violation of the provisions of this article shall be considered a public nuisance per se and any action authorized or permitted by law for the abatement of public nuisances may be instituted by the city in regard to such violation.

(c) Whenever a person has violated any provision of this article, the city may take any legal action necessary to recover damages sustained by the city as a result thereof.
(Ord. No. 674, § 1, 6-19-06)

Secs. 34-84--34-100. Reserved.

ARTICLE IV.

SEWER SERVICE*

* **Cross References:** Plumbing code, § 8-101 et seq.; liquid waste disposal for outdoor assemblies, § 20-29(6).

DIVISION 1.

GENERALLY

Sec. 34-101. Management.

The sewage works of the city is under the management of the public services director or his or her designated representative who may implement this article by making such rules, regulations, determinations and requirements as he or she deems necessary and advisable for the safe, efficient, and proper operation of the sewage works subject, however, to the rights, powers and duties with respect thereto which are reserved by law to the council.

(Ord. No. 433, § 1(2.40), 6-3-85)

Sec. 34-102. 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:

Authorized representative 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 originated;
 - b. The authorization is in writing and
 - c. The written authorization is submitted to the public services director.

Best management practices or *BMPs* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 34-168. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BOD or *biochemical oxygen demand* shall mean the quantity of oxygen, expressed in milligrams per liter, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty (20) degrees Celsius. The laboratory determinations shall be made in accordance with procedures set forth in standard methods.

Building drain shall mean that part of the lowest horizontal piping of a drainage system that receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and convey it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

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

Bypass shall mean the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

Categorical pretreatment standard shall mean any regulation containing pollutant discharge limits or requirements promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of industrial users.

COD or chemical oxygen demand shall mean the quantity of oxygen consumed in the chemical oxidation of organic matter expressed in milligrams per liter.

Combined sewer shall mean a sewer receiving both surface runoff and sewage.

Compatible pollutant shall mean the pollutants which are treated and removed to a substantial degree by the treatment works. These pollutants include COD, BOD suspended solids, pH and fecal coliform, phosphorus and its compounds, nitrogen and its compounds.

Environmental protection agency or EPA shall mean the United States Environmental Protection Agency or, also be used as a designation for the administrator or other authorized official of such agency.

Federal act or Act shall mean the Federal Water Pollution Control Act, as amended by the Clean Water Act and the Water Quality Act of 1987, 33 U.S.C. 1251 et seq., and rules and regulations promulgated thereunder.

Garbage shall mean the residue from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food products and produce.

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

Industrial user shall mean any nondomestic user discharging or potentially discharging, from any nondomestic source to the city's wastewater system, pollutants which are subject to regulation under the Federal Act, state law or local ordinance.

Industrial waste shall mean liquid waste carried from industrial processes as distinct from sanitary sewage.

Instantaneous limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference shall mean any inhibition or disruption of the city's wastewater system, treatment process, operations, or residuals management program, which may cause or contribute to a violation of the city's NPDES permit.

NPDES permit shall mean a national pollution discharge elimination system permit. A permit issued pursuant to section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342).

Natural outlet shall mean any outlet, including storm drains, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

New source shall mean any building, structure, facility or installation from which there is or may be a

discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided that:

- (1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
- (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- (3) The production or wastewater generating processes are substantially independent of an existing source at the same site.

Nondomestic user shall mean any user of the wastewater system that discharges wastes other than or in addition to water-carried wastes from toilet, kitchen, laundry, bathing or other facilities used for household purposes.

Normal strength domestic wastewater shall mean wastewater with a BOD of two hundred twenty (220) mg/l, suspended solids of three hundred (300) mg/l, phosphorus of ten (10) mg/l, ammonia-nitrogen of twenty (20) mg/l, a pH between 6.5 and 9.5, and not containing a concentration or quantity of other constituents which may interfere with the normal wastewater treatment process.

Pass-through shall mean a discharge which exits the wastewater treatment system into the receiving water 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).

Person means any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agent or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

pH shall mean the logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in moles per liter.

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

Pretreatment shall mean reducing the amount of pollutants, eliminating pollutants, or altering the nature of pollutant properties to a less harmful state prior to discharge into a public sewer. The reduction or alteration can be by physical, chemical, or biological processes, process changes, or by other means. Dilution is not considered pretreatment unless expressly authorized by an applicable national pretreatment standard for a particular industrial category.

Pretreatment requirement means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standard or standard shall mean any local, state or federal regulation containing pollutant discharge prohibitions, limitations or requirements applicable to discharges to the city's wastewater system.

Public services director or director shall mean the head of the public services department or his duly authorized representative.

Public sewer shall mean a sewer provided by or subject to the jurisdiction of the city. It shall also include sewers within or outside the city boundaries that serve one (1) or more persons and ultimately discharge into the city's wastewater facilities, even though those sewers may not have been constructed with city funds.

Sanitary sewer shall mean a sewer that conveys sewage or industrial wastes or a combination of both and into which storm, surface and groundwaters are not intentionally admitted.

Severe property damage means substantial physical damage to property damage to the treatment facilities 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. Severe property damage does not mean economic loss caused by delays in production.

Sewage or wastewater shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments.

Sewage works or wastewater system shall mean all facilities for collecting, pumping, treating and disposing of sewage.

Sewer shall mean a pipe or conduit that conveys wastewater or drainage water.

Significant industrial user.

- (1) Except as provided in paragraph (2) below, the term "significant industrial user" means:
 - a. Any industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or
 - b. Any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
 - c. Is designated as such by the public services director on the basis that the industrial user has a reasonable potential for adversely affecting the operation of the wastewater system or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.(f)(6)).
- (2) Upon a finding that an industrial user meeting the criteria in subparagraph (1)b. above has no

reasonable potential for adversely affecting the operation of the wastewater system or for violating any pretreatment standard or requirement, the public services director may at any time on his own initiative or in response to a request from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Significant noncompliance (SNC) means the noncompliance status of an industrial user with a violation or pattern of violations that meets one (1) or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including an instantaneous limit, as defined in section 34-102;
- (2) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including an instantaneous limit, as defined in section 34-102, 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 standard or requirement as defined in section 34-102(daily maximum, long-term average, instantaneous limit, or narrative standard) that the public services director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health and safety of city 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 an emergency suspension of service to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (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 thirty (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 may include a violation of best management practices, which the public services director determines will adversely affect the operation or implementation of the local pretreatment program.

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

Standard methods shall mean the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for Examination of Water and Wastewater," published by the American Public Health Association or Methods given in 40 CFR 136 "Guidelines for Establishing Test Procedures for the Analysis of Pollutants."

Storm drain shall mean a drain, sewer or open ditch for conveying stormwater, groundwater, subsurface water, or unpolluted water discharged in accordance with a NPDES permit.

Suspended solids shall mean solids that either float on the surface of, or are in suspension in water, sewage or other liquids.

Toxic or hazardous pollutant shall mean any pollutant or combination of pollutants listed in accordance with section 307(a) of the Federal Water Pollution Control Act or included in the critical materials register of the state water resources commission.

(Ord. No. 433, § 1(2.41), 6-3-85; Ord. No. 490, § 1, 4-20-92; Ord. No. 710, § 1, 5-4-09)

Cross References: Definitions and rules of construction generally, § 1-2.

Secs. 34-103--34-120. Reserved.

DIVISION 2.

USE OF PUBLIC SEWERS REQUIRED

Sec. 34-121. Waste deposits.

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

(Ord. No. 433, § 1(2.42), 6-3-85)

Sec. 34-122. Water pollution.

It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any wastewater or polluted waters, except where suitable treatment has been provided in accordance with all applicable rules and regulations of local, state and federal regulatory agencies.

(Ord. No. 433, § 1(2.43), 6-3-85)

Sec. 34-123. Sewer connection required.

The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may hereafter be located a public sanitary sewer of the city, is hereby required at his or her expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within ninety (90) days after date of official notice to do so.

(Ord. No. 433, § 1(2.44), 6-3-85)

Sec. 34-124. Private wastewater disposal.

(a) Except for facilities approved by the county health department in accordance with the county environmental health code and approved by the public services director, it shall be unlawful for any person to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater within the city.

(b) The owner shall operate and maintain any private disposal facilities in a sanitary manner at all times at no expense to the city.

(c) Within sixty (60) days after notice that a public sanitary sewer is available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sanitary sewer in accordance with the provisions of this article. Any septic tanks, cesspools and similar disposal facilities shall be cleaned of sludge and wastewater and filled with clean gravel or dirt.

(Ord. No. 433, § 1(2.45), 6-3-85)

Sec. 34-125. Storm drains.

(a) Stormwater and all other uncontaminated drainage shall be discharged to storm drains or to natural outlets as approved by the public services director and other regulating agencies. Industrial or commercial process water, cooling water or other discharges may be discharged to a storm drain or natural outlet only under a NPDES permit.

(b) Whenever a separate building sewer is required to accommodate surface runoff or groundwater and provided a storm drain is available contiguous to the property requiring the separate building drain, the building drain shall be connected directly to the storm drain. All separate building drains to accommodate surface runoff and groundwater discharge shall be constructed in accordance with the provisions of this article.

(Ord. No. 433, § 1(2.46), 6-3-85)

Secs. 34-126--34-140. Reserved.

DIVISION 3.

**CONNECTIONS TO
PUBLIC SEWERS**

Sec. 34-141. Permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer, storm drain or appurtenance thereof without first obtaining a written permit from the public services director.

(Ord. No. 433, § 1(2.47), 6-3-85)

Sec. 34-142. Permit application.

The owner or his or her agent shall make application for permit on a form provided by the city. The

permit application for all industrial users and certain nondomestic users, as determined by the public services director, shall be supplemented by plans, specifications, reports and other information required by the director in order to implement the provisions of this article. All connection charges and permit fees shall be paid in full, together with any deposits for work in the public right-of-way, prior to issuance of the permit.
(Ord. No. 433, § 1(2.48), 6-3-85)

Sec. 34-143. Protection of capacity for existing users.

The public services director shall not issue a permit for connection to the city sanitary sewer system or wastewater treatment facilities unless there is sufficient capacity, not legally committed to other users, available for the wastewater to be discharged in all downstream sewers, lift stations, force mains and the wastewater treatment plant. Capacity determinations or nondomestic users may include considerations such as, but not limited to, the concentration and mass loading of the pollutants to be discharged as well as flow or volume considerations.
(Ord. No. 433, § 1(2.49), 6-3-85)

Sec. 34-144. Connection charges.

(a) Upon recommendation of the public services director and approval by resolution of the council, a schedule of charges and fees for connection to a public sewer shall be established to recover the city's cost in providing this service to the property and user to be served. In addition to recovery of capital cost the charge schedule may include permit application and review fees and inspection fees for various user classifications.

(b) All costs and expense incidental to the installation of the building sewer and connection to the public sewer, including street repair and restoration in the public right-of-way, shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may be occasioned by the installation of the building sewer.
(Ord. No. 433, § 1(2.50), 6-3-85)

Sec. 34-145. Separate building sewer.

A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any responsibility or obligation for drainage caused by or resulting from any such single connection aforementioned.
(Ord. No. 433, § 1(2.51), 6-3-85)

Sec. 34-146. Abandoned building sewers.

(a) Prior to the demolition of any building or facility containing a building sewer connection to a public sewer, the building sewer connection shall be abandoned and plugged in accordance with procedures and specifications set forth by the public services director.

(b) Abandoned building sewers may be used in connection with new buildings only when they are

found, on examination and test by the public services director, to meet all requirements of this article.
(Ord. No. 433, § 1(2.52), 6-3-85)

Sec. 34-147. Building sewer standards.

(a) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, connecting to the public sewer, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in application thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice 9 shall apply.

(b) The building sanitary sewer and connection to the public sewer shall be reasonably gas tight and water tight to prevent infiltration or inflow of surface or ground water and exfiltration of sewage. The public services director shall establish standards and testing requirements for infiltration/exfiltration in accordance with good engineering practice. The director may require such tests on any building sewer prior to approval and commencement of service.

(Ord. No. 433, § 1(2.53), 6-3-85)

Sec. 34-148. Grade.

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

(Ord. No. 433, § 1(2.54), 6-3-85)

Sec. 34-149. Supervision.

The applicant for a building sewer connection or abandonment permit shall notify the public services director when the building sewer connection to or abandonment from the public sewer is ready for inspection. All connections and abandonments shall be made under the supervision of the director.

(Ord. No. 433, § 1(2.55), 6-3-85)

Sec. 34-150. Excavations.

All excavations for building sewer installation or abandonment shall be adequately guarded and lighted so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city and in accordance with chapter 29.

(Ord. No. 433, § 1(2.56), 6-3-85)

Sec. 34-151. Maintenance of building sewer.

The building sewer, including that portion in the public right-of-way, shall be maintained, repaired and replaced as required by the owner at no cost to the city.

(Ord. No. 433, § 1(2.57), 6-3-85)

Secs. 34-152--34-165. Reserved.

DIVISION 4.

REGULATION OF WASTEWATER DISCHARGES

Sec. 34-166. Purpose and policy.

(a) This division sets forth uniform requirements for discharges into the city's wastewater collection and treatment systems, and enables the city to protect public health in conformity with all applicable local, state and federal laws relating thereto.

(b) The objectives of this division are:

- (1) To prevent the introduction of pollutants into the city's sewage works which will interfere with the normal operation of the system or interfere with the use or disposal of the resulting municipal sludge;
- (2) To prevent the introduction of pollutants into the city's sewage works which will pass through the treatment works or otherwise be incompatible with such works;
- (3) To improve the opportunity to recycle and reclaim wastewater and sludge from the system.

(c) This article provides for the regulation of discharges to the city sewage works through the enforcement of administrative regulations.

(Ord. No. 433, § 1(2.58), 6-3-85)

Sec. 34-167. Right of revision.

The city reserves the right to amend this article to revise limitations or requirements on persons discharging to the sewage works in order to meet the intent and objectives of section 34-166.

(Ord. No. 433, § 1(2.59), 6-3-85)

Sec. 34-168. General discharge prohibitions.

No person shall discharge or cause to be discharged any pollutant, waste or wastewater which will pass through or cause interference with the operation or performance of the wastewater system. No person shall discharge or cause to be discharged, directly or indirectly to the wastewater system, any of the following:

- (1) Any gasoline, benzene, naphtha, toluene, xylene, fuel oil, oil or any substances which by reason of their nature or quantity may create a fire or explosive hazard or be injurious to the wastewater system or its operation, including but not limited to, wastestreams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Centigrade using test methods specified in 40 CFR 261.21.

- (2) Any waters or wastes containing toxic or hazardous pollutants as solids, liquids, or gases in sufficient quantity (either singly or by interaction with other wastes) to interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance, create any hazard in the receiving waters, or interfere with the operation of the wastewater system or the utilization or disposal of sludges or residuals;
- (3) Any waters or wastes having a pH lower than 5.0 or having any other corrosive property capable of causing damage to structures or equipment, or which may cause a safety hazard;
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater system such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, or any material which can be disposed of as trash.
- (5) Heat in amounts which will inhibit biological activity in the treatment process resulting in interference but in no case heat in such quantities that the temperature at the treatment works influent exceeds one hundred four (104) Fahrenheit (forty (40) degrees Celsius);
- (6) Any storm water, surface or subsurface drainage or roof runoff, except that contaminated surface drainage from limited areas may be discharged to the sanitary sewer by written permission of the public services director. Such discharge shall be subject to sewer use charges as determined by the director.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the public services director in compliance with applicable state or federal regulations;
- (8) Any substance with objectionable color not removed in the treatment process, such as but not limited to, dye wastes and vegetable tanning solutions;
- (9) Any slug discharge, in such volume or strength as to cause interference with the sewage works or overload the collection system.
- (10) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through. Such oils which may be separated by flotation and skimming or removed by standard oil and grease traps, sumps or traps shall not be discharged. Used oils, such as automotive engine oil, shall not be disposed of by dumping or discharging to the sanitary sewer system.
- (11) Pollutants which result in the presence of toxic gases, vapors, or fumes within the wastewater system in a quantity that may cause acute worker health and safety problems;
- (12) Any trucked or hauled pollutants, except at discharge points designated by the public services director.
- (13) Any wastes which are listed hazardous wastes in 40 CFR 261.30-33 pursuant to Section 3001 of

the Resource Conservation and Recovery Act.
(Ord. No. 433, § 1(2.60), 6-3-85; Ord. No. 490, § 1, 4-20-92)

Sec. 34-169. Federal categorical pretreatment standards.

(a) *Compliance required.* Users in regulated industrial subcategories, pursuant to the appropriate subpart of 40 CFR chapter I, subchapter N, shall meet applicable categorical pretreatment standards within the time limitations specified by the federal pretreatment regulations. New sources shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed ninety (90) days), new sources must meet all applicable pretreatment standards.

(b) *Order of determination.* The public services director shall set forth the applicable pretreatment standards and requirements for users subject to categorical standards through issuance of an order of determination pursuant to section 34-202.

(c) *Category determination requests.* In cases where it is not clear, or in dispute, whether a particular user is subject to categorical pretreatment standards, category determination requests shall be made in accordance with 40 CFR 403.6(a).

(d) *Removal credits.* The public services director may apply, in accordance with 40 CFR 403.7 (Removal Credits), for modification of categorical pretreatment standards when the wastewater treatment system achieves consistent removal of the pollutant(s) in question.

(e) *Baseline report for categorical dischargers.* Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or one hundred eighty (180) days after a final administrative decision has been made upon a category determination submission in accordance with 40 CFR Section 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the city wastewater system shall submit to the public services director a report containing the information as required under 40 CFR 403.12(b). New sources subject to categorical pretreatment standards shall submit to the public services director a report containing the information as required under 40 CFR 403.12(b) at least ninety (90) days prior to commencement of discharge to the city wastewater system. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards.

(f) *Compliance date report.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of discharge from the regulated process, any user subject to categorical pretreatment standards shall submit to the public services director 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. Such reporting shall conform to the requirements of 40 CFR 403.12(b)(4--6). Where equivalent mass or concentration limits are established by the public services director for a user, this report shall contain a reasonable measure of the user's longterm production rate. Where a user is subject to categorical pretreatment standards 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 O&M 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.

(g) *Periodic compliance reports.* Any user subject to a categorical pretreatment standard shall be required to submit periodic compliance reports to the public services director unless all the information required for the report is obtained by the city. Periodic compliance reports by the user shall conform to the requirements of 40 CFR 403.12 as set forth in an order of determination to the user by the public services director.

(h) *Signatory requirements for reports.* The reports required by (e), (f), and (g) above shall include the certification statement as set forth in 40 CFR 403.6(a)(2)(ii), and shall be signed by an authorized representative of the user.

(Ord. No. 433, § 1(2.61), 6-3-85; Ord. No. 490, § 1, 4-20-92)

Sec. 34-170. Limitations on toxic and hazardous pollutants.

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes except as authorized by an order of determination as issued by the public services director. The following numerical limitations were based on technical analysis of NPDES permit requirements, industrial loadings, sludge management practices and treatment process tolerance and efficiency as in place at the time of ordinance adoption and are intended to meet the objectives given in section 34-166. The technical support documentation for numerical limitations is on file as a part of the city's industrial pretreatment program. The director may set limitations lower than the limitations established below if in his or her review changing factors in the technical support documentation necessitate more stringent limitations in order to meet the objectives given in section 34-166. The director may establish numerical limitations for substances not specifically limited below in order to meet the objectives of section 34-166. The director may set, by an order of determination for individual dischargers, alternative or additional mass limitations provided adequate provision for flow metering and sampling are provided by the discharger.

- (1) These limitations shall be daily maximum limitations. Compliance or noncompliance may be determined by analysis of: Twenty-four-hour flow proportioned samples, twenty-four-hour composite samples, or one (1) or more grab samples averaged over a twenty-four-hour period as determined to be appropriate by the public services director for the discharge and parameters to be measured. No discharge to the city's wastewater system shall exceed the following limitations unless so authorized in an order of determination from the public services director which sets alternative mass limitations for the specific parameter:

1.0 mg/l Arsenic

0.1 mg/l Cadmium

2.7 mg/l Chromium (total)

2.0 mg/l Copper

0.6 mg/l Lead

1.0 mg/l Nickel

4.5 mg/l Zinc

0.0002 mg/l Mercury

0.07 mg/l Selenium

1.0 mg/l Silver

0.56 mg/l Cyanide (free)

1.0 mg/l Trichloroethylene

No detectable discharge PCB's (total)

(2) *Specific limitations on compatible pollutants.*

- a. These limitations shall be daily maximum limitations. Compliance or noncompliance is to be based on twenty-four-hour composite samples. No discharge to the city's wastewater system shall exceed the following limitations unless so authorized in an order of determination by the public services director pursuant to subsection b. below:

500 mg/l BOD-5 (or CBOD-5)

1000 mg/l Suspended solids

100 mg/l Total phosphorous

100 mg/l Ammonia

- b. The public services director may specify alternate mass and/or concentration limits for compatible pollutants for individual industrial users through issuance of an order of determination. Such alternate limitations shall be based on plant treatment capacity available for the user, treatability of the wastewater and determination that such discharges will not cause interference with the wastewater system. Such alternate limitations are subject to revocation or modification by the public services director due to changing conditions.

(3) Any waters or wastes containing fats, wax, grease, petroleum oil, cutting oil or other oils, whether emulsified or not, in excess of one hundred (100) mg/l; or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit;

- (4) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-six (66) degrees Celsius);
- (5) Any waters or wastes containing phenols or other taste and odor producing substances in such concentrations exceeding limits which may be established by the public services director to meet the objectives of section 34-166;
- (6) Any waters or wastes having a pH in excess of 9.5 unless specifically authorized in an order of determination issued by the public services director. The public services director may allow a higher discharge pH, not to exceed 11.0, upon determining that such discharge will not cause corrosion or interfere with the operation of the wastewater system;
- (7) Any waters or wastes which contain unusual concentrations of dissolved solids;
- (8) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment process employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of its NPDES permit or which may interfere with the sludge management practices.
- (9) Except where expressly authorized to do so by an applicable pretreatment standard or order of determination by the public services director, 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.

(Ord. No. 433, § 1(2.62), 6-3-85; Ord. No. 490, § 1, 4-20-92; Ord. No. 688, § 1, 11-5-07)

Sec. 34-171. Determination by director.

If any waters or wastes are discharged, or are proposed to be discharged to the sewage works, which waters contain the substances or possess the characteristics enumerated in sections 34-168, 34-169, or 34-170, or which in the judgment of the public services director may have a deleterious effect upon the wastewater treatment facilities, processes, equipment, sludge management practice, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, or which are discharged or proposed to be discharged by an industry subject to categorical pretreatment standards, the director may:

- (1) Reject the wastes;
- (2) Require pretreatment to meet categorical standards or local limits contained herein or as established by the public services director whichever is more restrictive;
- (3) Require control over the quantities and rates of discharge;
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes and sewer charges, under the provisions of section 34-174;
- (5) Require the installation and maintenance of a control manhole or other monitoring facility together with such meters and other appurtenances necessary for the observation, sampling and

measurement of the wastewater discharge. Such manhole or monitoring facility and equipment shall be installed by the owner, at his or her expense, in accordance with plans and specifications approved by the public services director. Such manhole or monitoring facility shall be maintained by the owner in proper operating condition and safely accessible at all times. The director shall have access to the control manhole or monitoring facility at any time for the purpose of observing, sampling and measuring the wastewater discharge or inspecting the monitoring equipment used by the discharger;

- (6) If the public services director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the director and subject to the requirements of all applicable codes, ordinances and laws.

Where pretreatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense;

- (7) Require that grease, oil and sand interceptors be provided when, in his or her opinion, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the public services director and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the director. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by properly licensed waste disposal firms.

(Ord. No. 433, § 1(2.63), 6-3-85)

Sec. 34-172. Measurements and tests.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined 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 or waste characteristic in question, in accordance with procedures approved by EPA or as found in standard methods and approved by the public services director. Sampling methods, times, duration and frequencies are to be determined on an individual basis subject to the approval of the public services director.

(Ord. No. 433, § 1(2.64), 6-3-85; Ord. No. 490, § 1, 4-20-92)

Sec. 34-173. Flow measurement.

The volume of flow used for computing industrial waste loadings, sewer use charges and surcharges shall be metered water consumption of the person as shown in records of water meter readings maintained by the city water department except as hereinafter provided:

- (1) If a person discharging into the city sanitary sewers procures any part or all of his or her water from sources other than the city water system, all or a part of which is discharged into the

sanitary sewers, the person shall install and maintain at his or her expense water meters of a type approved by the public services director for the purpose of determining the volume of waters obtained from these other sources.

- (2) If a person discharging industrial waste into the sanitary sewers produces evidence satisfactory to the public services director that more than ten (10) percent of the total annual volume of water used for all purposes does not reach the sanitary sewer, then the determination of the water consumption to be used in computing the waste volume discharged into the sanitary sewer may be made a matter of agreement between the city and the person.
- (3) If the public services director determines the volume of waste discharged cannot be adequately determined using metered water consumption records or that direct measurement of industrial wastewater discharges is necessary to identify and control slug loadings, then he or she may require an industrial user to provide direct measurement of the wastewater discharge. Metering devices so required shall be installed in accordance with the requirements of section 34-171(5).

(Ord. No. 433, § 1(2.65), 6-3-85)

Sec. 34-174. Extra strength surcharge.

Users approved by the public services director for the discharge of a wastewater greater in strength than normal strength domestic wastewater will be subject to an extra strength surcharge. The extra strength surcharge will be computed from loadings based on twenty-four (24) hours' composite samples and rates established by resolution of the council under section 34-249.

(Ord. No. 433, § 1(2.66), 6-3-85)

Sec. 34-175. Pretreatment requirements.

(a) Users shall provide necessary wastewater pretreatment or control measures as required to comply with the most stringent requirements of federal categorical pretreatment standards, state law and regulations or the requirements of this division or orders of determination issued pursuant to section 34-202. All facilities required to pretreat or control wastewater discharges shall be provided, operated, and maintained at the user's expense.

(b) Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the public services director for review and approval prior to the construction of the facility. The review and approval of the plans and operating procedures does not relieve the user from complying with applicable standards and requirements. Any subsequent change in the pretreatment facilities or method of operation shall be reported to the public services director prior to the user initiating such change.

(Ord. No. 490, § 1, 4-20-92)

Sec. 34-176. Bypass.

(a) *Bypass not violating applicable pretreatment standards or requirements* An industrial user may allow any bypass to occur which does not violate pretreatment standards or requirements, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to paragraphs (b) and (c) and (d) below.

(b) *Notice.* An industrial user shall provide notice of bypass as follows:

(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the public services director, if possible at least ten (10) days before the date of the bypass.

(2) An industrial user shall orally notify the public services director or the wastewater treatment plant operator of an unanticipated bypass that exceeds applicable pretreatment standards or requirements immediately upon becoming aware of the bypass. Unless specifically waived by the public services director, a written submission shall also be provided within five (5) 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 connected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.

(c) *Prohibition of bypass.* Bypasses are prohibited and the industrial user is subject to enforcement action for a bypass, unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

(2) There are no feasible alternatives to the 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 backup 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 paragraph (b) of this section.

(d) The public services director may approve an anticipated bypass, after considering its adverse effects, upon determining that it will meet the three conditions listed in paragraph (c) of this section.

(Ord. No. 490, § 1, 4-20-92)

Sec. 34-177. RCRA hazardous wastes.

(a) Section 34-168(13) prohibits the discharge to the wastewater system of any wastes which are listed hazardous wastes in 40 CFR 261.30-33 pursuant to Section 3001 of the Federal Resource Conservation and Recovery Act (RCRA). The discharge to the wastewater system of certain wastes which, if otherwise disposed of would be characteristic hazardous wastes under 40 CFR 261, may be permissible if the discharge otherwise complies with all applicable pretreatment standards and requirements, federal and state law.

(b) *Notification requirements.* Any industrial user discharging or proposing to discharge a waste, which if otherwise disposed of would be a characteristic hazardous waste under 40 CFR 261, shall notify the public services director in writing of such discharge or proposed discharge. Such reporting shall be by completion and submittal of a form provided by the public services director or otherwise meeting the information requirements of 40 CFR 403.12(p). Initial reporting shall be no later than ninety (90) days following adoption of sections 12-75--12-77. Users who have provided the initial notification prior to adoption

of these sections 34-175--34-177 need not resubmit such information unless there has been a change in the discharge or information reported. Industrial users not reporting any such discharge may be required by the public services director to submit a statement, signed by an authorized representative of the industrial user, certifying that the user does not discharge listed or characteristic hazardous wastes as identified pursuant to 40 C FR 261. Any industrial user shall notify the public services director in advance of any new or increased discharge of a characteristic hazardous waste.

(c) The public services director shall review the information reported by the user and shall make such determinations as authorized by section 34-171 of the Owosso city Code relative to the discharge of the waste to the city wastewater system.
(Ord. No. 490, § 1, 4-20-92)

Secs. 34-178--34-185. Reserved.

DIVISION 5.

SPILL PREVENTION AND NOTIFICATION

Sec. 34-186. Plan.

Any nondomestic user storing, utilizing, or producing any toxic or hazardous materials which, as determined by the public services director have the potential for accidental discharge or "slug" loading to the sewage works may be required to develop and submit a spill prevention plan. The plan as a minimum shall contain:

- (1) Identification of the type and volume of toxic or hazardous materials stored, handled or produced;
- (2) Identification of possible spill situations;
- (3) Description of facilities, structures or control measures in place or to be constructed or developed to prevent an accidental discharge or slug loading to the sewage works;
- (4) Provisions for detection of spills and procedures to be followed in the event of a spill including specific instructions for notification of the city.

(Ord. No. 433, § 1(2.67), 6-3-85)

Sec. 34-187. Facilities.

Each discharger shall provide protection from accidental discharge of materials or substances prohibited or regulated by this article. When, in the opinion of the public services director, an accidental spill or leakage of toxic or hazardous materials to the sewage works could result in a threat to the public health and safety, or cause interference with the sewage works, or pass through the sewage works to potentially impact the receiving waters, then the director may require that the user install and implement such containment facilities and practices as necessary to prevent such accidental discharge. Detailed plans showing facilities and operating

procedures to provide this protection shall be submitted to the director for review and approval prior to their construction and implementation.
(Ord. No. 433, § 1(2.68), 6-3-85)

Sec. 34-188. Notification requirements.

(a) An industrial user shall immediately notify the public services director or the wastewater treatment plant of any discharge, including any slug discharge or accidental release, which could cause interference with the wastewater system. 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) If sampling performed by an industrial user indicates a violation of a pretreatment standard, the user shall notify the public services director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the public services director within thirty (30) days after becoming aware of the violation.

(c) An industrial user shall promptly notify the public services director in advance of:

- (1) The discharge of any toxic or hazardous pollutant not previously reported, or
- (2) 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).

(d) Such notification shall not relieve the user of any enforcement action, fines, penalties, damages or liability which may be imposed pursuant to this code or state or federal law. Proper notification, however, shall be considered by the public services director in determining the appropriate enforcement action for a violation.

(Ord. No. 433, § 1(2.69), 6-3-85; Ord. No. 490, § 1, 4-20-92)

Secs. 34-189--34-200. Reserved.

DIVISION 6.

ADMINISTRATION*

* **Cross References:** Administration generally, Ch. 2.

Sec. 34-201. User classification.

(a) The public services director shall assign users of the city wastewater system to one of the following classes.

- (1) *Class I:* Significant industrial users.
- (2) *Class II:* Nondomestic users discharging greater than ten thousand (10,000) gallons per average day and/or known to discharge pollutants subject to prohibition, limitation or surcharge but who are not significant industrial users.
- (3) *Class III:* Nondomestic users discharging less than ten thousand (10,000) gallons per day with the potential for discharge of pollutants subject to prohibition, limitation or surcharge.
- (4) *Class IV:* All other users.

(b) The public services director shall review and update, at least once per year, the user classification listing and notify any Class I, II, or III users of any change in their classification. New users shall be classified after review of their sewer connection permit application and added to the listing.

(c) The user may appeal his or her assigned classification by submitting a written appeal to the city manager who, after consideration of information supplied by the user and by the public services director, shall make a final determination.

(Ord. No. 433, § 1(2.70), 6-3-85; Ord. No. 490, § 1, 4-20-92)

Sec. 34-202. Order of determination.

(a) The public services director may issue an order of determination to any user setting forth the requirements and conditions of discharge to the city wastewater system pursuant to the provisions of this article. The public services director shall periodically review such orders and may revoke, modify and/or reissue any order as appropriate.

(b) Any order of determination issued pursuant to this article shall be considered a part of this article for the user or facility, and shall be enforceable in the same manner as this article.

(c) An order of determination is issued to a user and applies to operations or processes contributing wastewater at a specific facility or location. Such an order is not transferable to a new or alternate facility or location. Such an order is not transferable to a new owner or user of an existing facility without prior notification to the public services director and provision of a copy of the existing order to the new owner or user. Any succeeding owner or user shall comply with the terms and conditions of the existing order until such order is revoked or reissued.

(d) For each significant industrial user the director shall issue an order of determination which shall include as a minimum:

- (1) A statement of duration, not to exceed five (5) years, including issuance and expiration dates; and

- (2) Effluent limitations based on the more stringent of applicable federal categorical pretreatment standards, state law, or local limits pursuant to this article; and
- (3) Self-monitoring sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type; and
- (4) Other conditions as deemed appropriate by the public service director to ensure compliance with this article, state and federal pretreatment standards and requirements; and
- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule; and
- (6) A statement of nontransferability.

(e) For pollutants, such as mercury, that are of concern at a level below background concentrations and subject to regulation in the city's wastewater discharge (NPDES Permit MI0023752) through implementation of a state approved pollutant minimization program, an order of determination may be issued to any class I, II, or III user of the city wastewater system that has the reasonable potential to discharge controllable levels of mercury at or above the limitation established in section 34-170 above. For low discharge volume users (class III users), such as dental offices, where sampling and analysis of the individual user's discharge is not feasible or practicable, the user may be determined to be in compliance with the local limitation by implementing acceptable pollutant minimization practices to eliminate the discharge of controllable mercury levels.

(Ord. No. 433, § 1(2.71), 6-3-85; Ord. No. 490, § 1, 4-20-92; Ord. No. 689, § 1, 11-5-07)

Sec. 34-203. Rules and regulations.

(a) With approval of the council and for the purpose of preventing, discontinuing or correcting any violations of this article, the public services director may adopt and establish rules and regulations for the enforcement of this article.

(b) Rules and regulations adopted under this section may include, but are not limited to, imposing requirements upon nondomestic users to submit plans for the pretreatment of wastewater, to install equipment to monitor the nature and quantity of the wastewater being discharged into the system, to keep records, and/or to establish compliance schedules.

(Ord. No. 433, § 1(2.72), 6-3-85)

Sec. 34-204. Reporting requirements.

(a) *Basic data.* Any new or existing nondomestic user may be required by the public services director to provide information needed to implement the provisions of this article, state and federal law and regulations. Any nondomestic user may be required to provide periodic updates of this basic data. Following review of the data provided by the user, the public services director may require additional information as necessary to evaluate the discharge or potential discharge from the user. Information requirements may include but are not limited to:

- (1) Information on the nature, rate of production and Standard Industrial Classification (SIC) of the operation(s) carried out by the user;
- (2) Information on wastewater discharge volume and variation;
- (3) Information on wastewater constituents and characteristics, including but not limited to those specifically regulated by this article, as determined by chemical and biological analyses;
- (4) Site plans, floor plans, mechanical and/or plumbing plans of the users property and facilities showing sewers, sewer connections, control manholes or sampling facilities, and pretreatment facility locations as applicable;
- (5) Details of wastewater pretreatment facilities;
- (6) Information relative to the type and volume of toxic or hazardous materials produced, handled, stored, or used in what quantity and rate these materials are discharged or potentially discharged to the sewage works;
- (7) Details of spill prevention or containment practices and facilities;
- (8) A statement, signed by an authorized representative of the user, regarding whether or not the user's discharge is in compliance on a consistent basis with any applicable categorical pretreatment standard or other limitation of this article and if not, whether additional operation and maintenance procedures and/or additional pretreatment is required for the user to meet applicable standards;
- (9) When a discharge is not in compliance the user may be required to detail the necessary changes in operation and/or additional pretreatment facilities required to achieve compliance and the shortest schedule for their implementation;
- (10) Number of employees, hours of operation of plant and hours of operation of pretreatment facilities and discharge therefrom;

(b) *Changes.* All industrial users are required to notify the public services director prior to the discharge of any new wastewater constituents, or any substantial change in the volume or characteristics of the wastewater constituents being discharged, or any substantial change in the basic data reported under subsection (a).

(c) *Self-monitoring reports.* The public services director may require any industrial user to submit self-monitoring reports on waste discharge volume, specific pollutant analyses, and other information as necessary to assure compliance with federal categorical pretreatment standards and local limitations. At a minimum all Class I users shall be required to submit self-monitoring reports at least once every six (6) months unless all the information required in the report is obtained directly by the city. Such self-monitoring reports shall be based on data obtained through appropriate and representative sampling and analysis performed during the period covered by the report. If the user monitors any pollutant more frequently than required by the

director, using procedures conforming to section 34-172 (measurements and tests), then the results of this monitoring shall be included in the report.

(d) *Additional reporting requirements for categorical industrial users.* Industrial users subject to federal categorical pretreatment standards shall be required to comply with the reporting requirements of 40 CFR 403.12.

(e) *Compliance schedules and reporting thereon.*

(1) If additional pretreatment facilities or operation and maintenance efforts are required of an industrial user to meet federal categorical pretreatment standards and/or local limits, [the] public services director may require the development and submission of a compliance schedule by the industrial user. The schedule shall detail the proposed commencement and completion dates of major elements leading to the construction and/or operation of the necessary pretreatment facilities with final completion by the date required by the federal categorical pretreatment standards or as approved by the director, whichever is sooner. No incremental step in the compliance schedule shall exceed nine (9) months. Upon review and approval by the public services director, the compliance schedule may be incorporated into an order of determination, consent order or other enforceable document issued to the user pursuant to this article.

(2) Not later than fourteen (14) days following the completion of each date in the schedule and the final date for compliance, the user shall submit a progress report to the public services director. The report shall include a statement as to whether or not the user complied with the increment of progress as set forth in the compliance schedule. If the schedule was not met, the user shall report the reason(s) for failing to meet the schedule, the date the user expects to complete the increment of progress, and the steps being taken by the user to return to the established compliance schedule.

(Ord. No. 433, § 1(2.73), 6-3-85; Ord. No. 490, § 1, 4-20-92)

Sec. 34-205. Recordkeeping requirements.

(a) Any industrial user shall maintain records of all information resulting from any monitoring activities required of the user by or pursuant to this article. Such records shall include for all samples:

- (1) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (2) The dates analyses were performed;
- (3) Who performed the analyses;
- (4) The analytical techniques/methods used; and
- (5) The results of the analyses.

(b) Any industrial user subject to the self-monitoring and/or reporting requirements established by or

pursuant to this article shall retain for a minimum of three (3) years any records of such self-monitoring and/or reporting activities and results. The industrial user shall make such records available for inspection and copying by the director of public services. This period of records retention may be extended during any litigation concerning compliance with this article.

(Ord. No. 433, § 1(2.74), 6-3-85; Ord. No. 490, § 1, 4-20-92)

Sec. 34-206. Right of entry.

The public services director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharges to storm drains, public sewers, natural outlets, watercourses and wastewater facilities in accordance with the provisions of this article. Such entry shall normally be made during regular business hours, but in an emergency at any time. The public services director shall have access to control manholes or monitoring facilities installed pursuant to section 34-171(5) at any time. The city shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations.

(Ord. No. 433, § 1(2.75), 6-3-85)

Sec. 34-207. Indemnification.

While performing the necessary work on private properties referred to in section 34-206, the public services director or duly authorized employee of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death of the city employee and the city shall indemnify the company against loss or damage to its property by the city employees or property damage claims asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in section 34-171(5).

(Ord. No. 433, § 1(2.76), 6-3-85)

Sec. 34-208. Confidential information.

Information and data furnished to the city with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the discharger 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 or proprietary information of the discharger. When requested by a discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this article, the national pollutant discharge elimination system (NPDES) permit, and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the discharger furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the discharger.

(Ord. No. 433, § 1(2.77), 6-3-85)

Sec. 34-209. Fees.

(a) It is the purpose of this section to provide for the payment of fees from nondomestic users of the city's wastewater system to compensate the city for the cost of administration of the wastewater pretreatment and control program established herein.

(b) The city shall adopt by council resolution charges and fees which may include:

(1) Fees for monitoring, inspection and surveillance procedures;

(2) Fees for reimbursement of cost to establish and administer the city's wastewater pretreatment and control program.

(Ord. No. 433, § 1(2.78), 6-3-85)

Secs. 34-210--34-220. Reserved.

DIVISION 7.

ENFORCEMENT*

* **Editors Note:** Ord. No. 711, § 1, adopted May 4, 2009, amended division 7 in its entirety to read as herein set out. Former division 7, §§ 34-221--34-230, pertained to similar subject matter, and derived from Ord. No. 433, adopted June 3, 1985; and Ord. No. 490, adopted April 20, 1992.

Sec. 34-221. Violations.

(a) Any person found to be violating any provision of this article may be served by the public services director with a written notice stating the nature of the violation and either providing a reasonable time limit for the satisfactory correction thereof, or requiring the user to submit an action plan for the correction and prevention of such violation(s). Within the period of time stated in such notice, or in conformance with a compliance schedule in a subsequent order to implement a corrective action plan, the person shall permanently cease all violations. Nothing in this section shall limit the authority of the public services director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) A violation of the provisions of this article shall be considered a public nuisance per se and any action authorized or permitted by law for the abatement of public nuisances may be instituted by the city in regard to such violation.

(c) Whenever a person has violated any provision of this article, the city may take any legal action necessary to recover damages sustained by the city as a result thereof. Such damages shall include, but are not limited to, lost revenues from the federal or state government and any fines or other penalties which are the result of the violation.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-222. Emergency suspension of service.

(a) In the case of discharges which present or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or cause interference with the operation of the sewage works, or otherwise constitutes a public nuisance or emergency, the city sewer service of any person causing or threatening to cause such discharge may be terminated by order of the public services director, pending further investigation and hearing under section 34-223.

(b) Any person so notified of the suspension of the city's sewer service shall, within the time specified in such notice, cease all discharges.

(c) In the event of failure of the person to voluntarily comply with the suspension order within the specified time, the city may commence an action or proceeding in any court of competent jurisdiction to compel the person's compliance with such order.

(d) The city shall reinstate the sewer service and terminate any judicial proceedings upon proof by the user to the satisfaction of the public services director of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth above.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-223. Termination of service.

(a) *Authority to terminate.* The public services director shall have the authority to terminate wastewater service to any user who attempts to violate or violates any provision of this article, or who in any way attempts to avoid, delay, prevent, or interfere with the execution or enforcement of any provision of this article, or who fails to pay any charges, levied against the user, whether regulator or extraordinary, under this article, or who attempts to violate or violates or attempts to avoid, delay, prevent or interfere with the execution or enforcement of any order, rule or regulation promulgated by the director for compliance with or in execution of this article, or who fails to appear at a hearing to meet a charge against him, her or it under this article.

(b) *Hearing procedures.*

(1) In addition to any remedies provided elsewhere in this article, whenever the public services director has reason to believe that any user has committed or is committing an offense covered by subsection (a) he or she may serve upon the user a written notice stating the nature of the alleged violation and describing the time for and the nature of required correction.

(2) If the violation is not corrected as prescribed in the notice, the director may issue an order to the user to appear for a hearing and show cause why service should not be terminated.

(3) The notice and order to show cause shall be served upon the user by personal service, or in lieu thereof by certified mail, return receipt requested, to the user's last known address.

(4) The hearing shall be conducted by the city manager or a hearing officer appointed by him or her, who shall render a written decision determining whether the user's service shall be terminated and stating reasons therefor. Admissibility of evidence at the hearing shall be within the discretion of the city manager or hearing officer.

- (5) The user shall be entitled to be represented at the hearing in person or by an attorney at his or her own expense and shall be entitled to examine witnesses for the city and present evidence on his or her own behalf. A record shall be made of the proceedings, but such record need not be verbatim.
- (6) The user whose service is terminated without prior hearing may request such a hearing as described in subsections (b)(4) and (5), to permit him to show why his or her service should not have been terminated and should be resumed. Such requests shall be granted but service will not be resumed unless so ordered by the city manager or hearing officer.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-224. Publication of enforcement actions.

The public services director shall publish, at least annually in the largest daily newspaper published in the service area of the wastewater system, a public notification of industrial users which are found to be in significant noncompliance, as defined in section 34-102, with applicable pretreatment requirements during the period since the previous publication.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-225. Right of appeal.

Any discharger or any interested party shall have the right to request in writing an interpretation or ruling by the city on any matter covered by this article, and shall be entitled to a prompt written reply. If such inquiry is by a discharger and deals with matters of performance or compliance with this article for which enforcement activity relating to an alleged violation which is the subject, receipt of a discharger's request, shall stay all enforcement proceedings pending receipt of the written reply. Appeal of any final judicial order entered pursuant to this article may be taken in accordance with local and state law.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-226. Temporary noncompliance; upset provisions.

(a) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. 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) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (c) are met.

(c) An industrial 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 industrial user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workmanlike manner and in

compliance with applicable operation and maintenance procedures.

(3) The industrial user has submitted the following information to the public services director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

- a. A description of the 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;
- c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) The industrial user shall control production or 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, lost or fails.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-227. Recovery of costs incurred by city.

Any user violating any of the provisions of this article, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or interference with city's wastewater system shall be liable to the city for any expense, loss, or damage caused by such violation or discharge. The city shall bill the user for the costs incurred by the city for any cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this article enforceable under the provisions of this division.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-228. Enforcement cost recovery.

(a) Notwithstanding any other section of this article, any user who is found to have violated any provision under this article, or orders issued under this article, may be charged costs associated with: investigation of the violation; issuance of notices and orders; follow-up inspections, sampling and analyses by the city; unplugging sewers and removal and disposal of wastes improperly discharged to the sewers. A schedule of standard charges may be established, and revised as appropriate, by resolution of the city council. Where the standard charges are not appropriate, costs shall be charged in accordance with established city labor, material and equipment rental rates with labor charged at an overtime rate.

(b) Such charges shall be added to user's next scheduled sewer service billing, and subject to other collection rights and remedies as designated by law and this article to collect said service charges. Unpaid charges shall constitute a lien against the individual user's property.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-229. Consent orders.

The public services director is hereby empowered to enter into consent orders establishing an agreement with an industrial user which is subject to enforcement action for noncompliance with this article. Consent orders may include compliance schedules, stipulated fines or penalties, remedial actions, other provisions agreed to by the parties, and signatures of the public services director and an authorized representative of the industrial user. Consent orders shall be considered a part of this article for the specific user and shall be enforceable in the same manner as this article.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-230. Show cause order.

In the event of a proposed enforcement action, other than termination of wastewater service under section 34-223, the public services director may order any user which causes or contributes to violation of this article to appear and show cause at a meeting with the director why the proposed enforcement action should not be taken. The notice of the meeting shall be served on the user personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the meeting. Whether or not a duly notified industrial user appears as noticed, enforcement action may be pursued as appropriate.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-231. Misdemeanor.

(a) A person who violates any provision of this chapter that is listed in subsection (b) below shall, upon conviction, be guilty of a misdemeanor. Such misdemeanors are subject to a fine of not more than five hundred dollars (\$500.00) or the maximum allowable under state law, plus costs and other sanctions, or by imprisonment for a period not to exceed ninety (90) days, or both.

(b) Misdemeanor violations include:

- (1) Intentional unpermitted discharge, including but not limited to intentional unpermitted dumping of wastes or wastewater to any manhole, any sewer, drain or natural outlet;
- (2) Making any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, or falsification, tampering with, or rendering inaccurate any monitoring device or analytical test method required under this article;
- (3) Improper sampling, with evidence of intent to falsify or mislead;
- (4) Intentional introduction of any substances into the wastewater system that causes personal injury or property damage;
- (5) Any recurring violation that results in a determination of significant noncompliance that continues after application of administrative enforcement remedies; and

- (6) Illegal discharge when the discharge causes interference with the wastewater system and there is evidence of intent.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-232. Municipal civil infraction.

(a) Except for a violation which is specifically designated in this article as a misdemeanor subject to criminal prosecution, any person, firm or corporation who violates or fails to comply with any provision of this article, or order issued hereunder, or any other pretreatment standard or requirement is responsible for a municipal civil infraction and is subject to the civil fines set forth below and costs and other sanctions that may be imposed by the court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

(b) The public services director, utilities director and industrial pretreatment coordinator are hereby designated as authorized city officials to issue municipal civil infraction citations and notices under this article.

(c) The penalty for a violation of this article that is a municipal civil infraction is a civil fine in accordance with the schedule that follows, plus costs, damages, expenses and other sanctions that may be imposed by the court. A category I violation is a major violation by any person or firm that causes interference with the wastewater system, or endangers the health and safety of city personnel or the general public, or otherwise necessitates an emergency termination of wastewater service to halt or prevent such a discharge. A category II violation is any noncategory I violation, by any person or firm classified as a significant industrial user pursuant to section 34-201. A category III violation is any noncategory I violation by a person or firm other than a significant industrial user.

Violation Type	First Offense	First Repeat Offense	Subsequent Repeat Offense
Category I	\$1,000	\$2,500	\$5,000
Category II	\$250	\$500	\$1,000
Category III	\$100	\$250	\$500

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-233. Injunctive relief.

At the request of the public services director, the city attorney may petition any court of competent jurisdiction for the abatement of any nuisance, and to seek relief for any violations of this article, or order issued under this article. The city attorney may seek, and the court may impose, temporary or permanent injunctive relief, damages, civil penalties as provided in section 34-234, costs and such other relief as the court may order.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-234. Judicial civil penalties.

In an action brought by the city against a person for violation of this article, or order issued under this article, a court of competent jurisdiction may impose a civil penalty of up to \$5,000.00 per day per violation. In calculating the amount of the penalty, the court may consider the frequency, magnitude and duration of violation(s) by the person, the impact of the violation(s) on public health and the environment, the economic

benefit to the person gained by the violation(s), the compliance history of the person, and other factors deemed appropriate by the court.

(Ord. No. 711, § 1, 5-4-09)

Sec. 34-235. Remedies nonexclusive.

The remedies provided for in this division are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant person. Prosecution of a criminal offense against a person shall not be dependent upon or held in abeyance during any civil proceeding regarding such person.

(Ord. No. 711, § 1, 5-4-09)

Secs. 34-236--34-245. Reserved.

ARTICLE V.

**WATER AND
SEWER RATES**

Sec. 34-246. Definition.

For the purposes of this article, the word "premises" shall mean each lot or parcel of land, building or premises having any connection to the water distribution system of the city or the sewage disposal system of the city.

(Code 1977, § 2.91)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 34-247. Basis of rates and charges.

(a) The water supply and sanitary sewer systems of the city shall, as far as possible, be operated and maintained on a public utility basis as authorized by law. Each customer connected to and using facilities of the system shall pay user rates and charges as fixed and established from time to time by resolution of the council. The city shall annually review the user rates and charges as required by public law.

(b) Water service shall be charged for on the basis of the user's demand potential, which shall be proportioned to the size of the user's water meter or service line, and on the basis of water used as determined by the water meter installed in the user's service line by the public services department. No free water service shall be furnished to any person.

(c) Sewer service shall be charged for on the basis of the user's demand potential, which shall be proportioned to the size of the user's water meter or water service line, and on the basis of water used as determined by the user's water meter.

(d) Where sewer service is furnished to users not connected to the water system or in cases where users make use of large quantities of water which may be discharged into storm sewers or approved outlets other than the sanitary sewer system, or for other miscellaneous users of water for which special consideration should be given, special rates may be fixed by the city, and the city may require class I and/or class II users to install metering equipment to actually determine the flow. Class III residential users shall be charged on the

basis of the average class III metered charges on the system or required to install a meter on their water supply.

(e) Surcharges may be set by ordinance or council resolution to meet the requirements of Public Law 92-500 or to recover extra costs attributable to a certain user or user class.

(f) No free sewer service shall be furnished to any person.

(g) All unallocated wastewater treatment works capacity must conform with the requirements of section 204(a)(5) of the act. Cost-effectiveness guidelines are published as Appendix A to this subpart to furnish additional advisory information concerning the implementation of section 212(2)(c) of the act. (Code 1977, § 2.92; Ord. No. 363, § 2.92, 10-6-80)

Sec. 34-248. Water rates.

The rates to be charged for water service in effect in the city on the date of the adoption of this Code, shall remain in effect until changed by the council by resolution, which resolution may thereafter be modified or revised from time to time. (Code 1977, § 2.93)

Sec. 34-249. Sewer rates.

(a) Charges for sewer service shall be levied upon all premises having any sewer connection with the public sewers. Such charges shall be established by resolution of the council, which resolution may thereafter be modified or revised from time to time by resolution of the council.

(b) Charges for wastewater treatment service outside the city corporate limits shall be in accordance with contractual agreements.

(c) Extra strength surcharges shall be set by resolution of the council and shall apply to those users approved for discharge of extra strength wastewater in accordance with section 34-170 of this Code and who have installed an approved control manhole as required in section 34-171 of this Code. Extra strength surcharges shall be based on twenty-four-hour composite samples. (Code 1977, § 2.94; Ord. No. 363, § 2.94, 10-6-80)

Sec. 34-250. Billing.

(a) Charges for water and sewer service may be billed and collected monthly, or on a quarterly basis.

(b) Sewer service surcharges shall be billed and collected concurrently with the sewer service charge.

(c) Billing and collection of sewer service charges to persons outside the city corporate limits shall be in accordance with the contractual agreement for that service. (Code 1977, § 2.95; Ord. No. 363, § 2.95, 10-6-80; Ord. No. 702, § 1, 9-15-08)

Sec. 34-251. Collection.

The public services department is hereby authorized to enforce the payment of charges for water service to any premises by discontinuing the water service to such premises and the payment of charges for sewage disposal service to any premises may be enforced by discontinuing either the water service or the sewage disposal service to such premises or both and an action of assumpsit may be instituted by the city against the customer. The charges for water service and sewage disposal service, which, under the provisions of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq.), as amended, are made a lien on the premises to which furnished, are hereby recognized to constitute such lien; and the public services director shall, annually, on May first, certify all unpaid charges for such services furnished to any premises which, on the thirty-first day of March preceding, have remained unpaid for a period of three (3) months, to the council, who shall place the same on the next tax roll of the city after notification as provided for in the city charter. Such charges so assessed shall be collected in the same manner as general city taxes. In cases where the city is properly notified in accordance with Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq.), as amended, that a tenant is responsible for water or sewage disposal service charges, no such service shall be commenced or continued to such premises until there has been deposited with the public services department, a sum sufficient as estimated by the director, such deposit to be as prescribed by resolution of the council. Where the water service to any premises is turned off to enforce the payment of water service charges or sewage disposal service charges, the water service shall not be recommenced until all delinquent charges have been paid and a deposit as in the case of tenants is made. In any other case where, in the discretion of the public services director, the collection of charges for water or sewage disposal service may be difficult or uncertain, the director may require a similar deposit. Such deposits may be applied against any delinquent water or sewage disposal service charges and the application thereof shall not affect the right of the public services department to turn off the water service and/or sewer service, to any premises for any delinquency thereby satisfied. No such deposit shall bear interest and such deposit, or any remaining balance thereof, shall be returned to the customer making the same when he or she shall discontinue receiving water and sewage disposal service.
(Code 1977, § 2.96)

Sec. 34-252. Revenue bond ordinance.

Nothing contained in this chapter shall be deemed to alter or repeal any of the provisions of any ordinance providing for the issuance of water supply system revenue bonds or sewage disposal system revenue bonds with respect to the obligations of the city and the security of the bondholders thereunder. This chapter is intended to be in conformity with all such bond ordinances, and should there be any conflict whereby the security of the bondholders or the obligations of such bonds is impaired, then with respect to such conflict, the provisions of such bond ordinances shall prevail.
(Code 1977, § 2.97)

Sec. 34-253. Wastewater treatment system; allocation of revenues.

The revenues and income derived from the collection of rates and charges as authorized under the August 17, 1977 Sewer Service Agreement between the Cities of Owosso and Corunna, and Townships of Owosso and Caledonia shall be deposited in funds set up for such revenues specified as follows:

- (1) *Operation and maintenance fund.* There shall be established a fund or account to be designated operation and maintenance fund from the revenues received from the users or such purpose. Out of these revenues, payments will be made for current expenses of operation, maintenance,

scheduled replacement, and administration of the wastewater treatment system of the city.

- (2) *Replacement fund.* A replacement fund shall be established for the purpose of maintaining the capacity and performance of the wastewater treatment plant. Annual payments shall be made to the fund.
- (3) *Improvement fund.* An improvement fund may be established for the purpose of making replacements, renewals and improvements to the plant as determined by the plant review board. The moneys to fund the depreciation on the plant included in the operation and maintenance charge, may be transferred to the improvement fund.

(Ord. No. 363, § 2.98, 10-6-80)

Sec. 34-254. Definitions.

Whenever used in this section, except when otherwise indicated by the context, the following terms when capitalized shall have the following meanings:

Act 94 means Act 94, Public Acts of Michigan, 1933, as amended.

Bonds shall mean any bonds which may be issued by the city for the purpose of making repairs, extensions, enlargements and improvements to the system, for the payment of which the city intends to use net revenues.

City means the City of Owosso, Shiawassee county, Michigan.

General obligation bond payment fund means the general obligation bond payment fund created under section 34-259.

Improvement fund means the improvement fund created under section 34-259.

LTGO bonds means the city's general obligation limited tax bonds to be issued in one or more series to construct the project as described in a notice of intent to issue bonds published by the city on February 6, 2008.

Operation fund means the operation and maintenance fund created under section 34-259.

Project means improving and extending the city's sanitary sewage disposal system, including but not limited to requiring rehabilitation of the city's sanitary sewage system and manholes, together with any appurtenances and attachments thereto and any related site acquisition or improvements.

Receiving fund means the sanitary sewage disposal system receiving fund created under section 34-259.

Revenue bond redemption fund means the revenue bond and interest redemption fund created under section section 34-259.

Revenue bonds shall mean any revenue bonds which might be issued by the city in the future pursuant to Act 94 which are payable from a statutory first lien on the net revenues.

Revenues and *net revenues* mean the revenues and net revenues of the system and shall be construed as defined in Section 3 of Act 94, including, with respect to "revenues", the earnings derived from the investment of moneys in the various funds and accounts established by this section.

System means the entire sanitary sewage disposal system of the city including such facilities thereof as are now existing and as shall be acquired and constructed as the project, including all appurtenances, enlargements, extensions, repairs and improvements thereto hereafter made.
(Ord. No. 697, § 1, 6-2-08)

Sec. 34-255. Construction of project and payment of costs.

It is hereby determined to be a necessary public purpose of the city to acquire and construct the project. The total cost of the project is estimated to be not-to-exceed \$2,750,000 including the payment of costs incidental to the issuance, sale and delivery of the LTGO bonds, which estimate of cost is hereby approved and confirmed. The period of usefulness of the project is estimated to be not less than thirty (30) years. To pay part of the cost of acquiring and constructing the project, including payment of legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the LTGO bonds, the city shall borrow a sum not-to-exceed \$2,750,000 and issue one or more series of limited tax general obligation bonds herefore pursuant to the provisions of Part 43 of Act 451, Public Acts of Michigan, 1994, as amended, and a bond authorizing resolution of the city council. The remaining costs of the project shall be defrayed from city funds on hand and legally available for such use.
(Ord. No. 697, § 1, 6-2-08)

Sec. 34-256. Management; fiscal year.

The operation, repair and management of the system shall continue to be under the supervision and control of the city council. The city council may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the system. The city council may make such rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the system. The fiscal year for the system shall run concurrently with the fiscal year of the city.
(Ord. No. 697, § 1, 6-2-08)

Sec. 34-257. No free service or use.

No free service or use of the system, or service or use of the system at less than cost, shall be furnished by the system to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the city.
(Ord. No. 697, § 1, 6-2-08)

Sec. 34-258. Rates and charges; fixing and revising rates; rate covenant.

The rates and charges for service furnished by and the use of the system and the methods of collection and enforcement of the collection of the rates and charges for service furnished by and the use of the system shall be those in effect on the date of adoption of the ordinance from which this section derives, which, in the opinion of the city council, are currently sufficient to provide for the payment of the expenses of administration

and operation and such expenses for maintenance of the system as are necessary to preserve the system in good repair and working order, to provide for the payment of the principal of and interest on the LTGO bonds as the same become due and payable, and to provide for all other obligations, expenditures and funds for the system required under this section. It is hereby covenanted and agreed to fix and maintain rates for services furnished by the system at all times sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the system as are necessary to preserve the system in good repair and working order, and to provide for all other obligations, expenditures and funds for the system required by law including, specifically to provide for payment of principal of, interest, and premium, if any, on the LTGO bonds.

The rates and charges for operation, maintenance, replacement and administration hereby established shall be based upon a methodology which complies with the applicable federal and state statutes and regulations. The amount of the rates and charges shall be sufficient to provide for debt service and for the expenses of operation, maintenance, replacement and administration of the system as necessary to preserve the same in good repair and working order. The amount of the rates and charges shall be reviewed annually and revised when necessary to ensure system expenses are met and that all users pay their proportionate share of operation, maintenance, equipment replacement and administration expenses.

(Ord. No. 697, § 1, 6-2-08)

Sec. 34-259. Funds and accounts; flow of funds.

Commencing on the effective date of the ordinance from which this section derives, all funds belonging to the system shall be transferred as herein indicated and all revenues of the system shall be set aside as collected and credited to a separate depository account to be designated as the sanitarysewage disposal system receiving fund ("receiving fund"). In addition, on the effective date of the ordinance from which this section derives, all revenues in any accounts of the system shall be transferred to the receiving fund and credited to the funds and accounts as provided in this section. The revenues credited to the receiving fund are pledged for the purpose of the following funds and shall be transferred or debited from the receiving fund periodically in the manner, at the times, and in the order of priority hereinafter specified, provided that no transfer shall be required to be made to a fund on any date if the amount on deposit in the fund is sufficient to meet the requirements of this section.

- (1) *Operation and maintenance fund.* There shall next be established and maintained a separate account designated as the operation and maintenance fund. Out of the revenues credited to the receiving fund there shall be first set aside in the operation and maintenance fund the amounts necessary to provide for the payment of expenses of administration and operation of the system and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.
- (2) *Revenue bond and interest redemption fund.* In the event the city issues revenue bonds pursuant to Act 94 which are payable from a statutory first lien on the net revenues, there shall be established and maintained a separatedepository account designated as the revenue bond redemption fund, the moneys on deposit therein from time to time to be used solely for the purpose of paying the principal of, redemption premiums (if any) and interest on the revenue bonds. Out of the revenues remaining in the receiving fund after provision for the operation and maintenance fund, there shall be set aside in the revenue bond redemption fund prior to each date

principal or interest on the revenue bonds issue, the amount necessary to provide for the payment when due of the principal of and interest on the revenue bonds including any amounts necessary to maintain any revenue bond reserve account established within the revenue bond redemption fund by the ordinance authorizing issuance of revenue bonds.

- (3) *General obligation bond payment fund.* There shall next be established a fund designated the general obligation bond payment fund, the money credited thereto to be used solely for payment of principal of, interest and premium, if any, on the LTGO bonds and any other general obligation bonds issued by the city for improvements to the system. Out of the revenues remaining in the receiving fund after meeting the requirements of the operation and maintenance fund and the revenue bond redemption fund, there shall be next set aside in, or credited to, the general obligation bond payment fund, amounts which shall be proportionately sufficient to provide for payment of principal, interest and premiums, if any, on the LTGO bonds and any other general obligation bonds as the same become due. Amounts in the general obligation bond payment fund shall be withdrawn as necessary to pay the principal of and interest and premium on the LTGO bonds and any other general obligation bonds as the same become due; the moneys withdrawn for payment of the LTGO bonds shall be deposited in the debt retirement fund created for the LTGO bonds.
- (4) *Improvement fund.* There shall next be established and maintained a separate account, pursuant to section 34-261, designated as the improvement fund, the money credited thereto to be used solely for the purpose of making improvements, additions, extensions, repairs, and replacements to the system. The improvement fund may have several subaccounts therein. On the effective date of the ordinance from which this section derives, there shall be credited to the improvement fund a sum, if any, as shall be determined by the city manager. Out of the revenues and moneys of the system remaining in the receiving fund, after provision has been made for the transfer of moneys in the operation and maintenance fund, the revenue bond redemption fund (including any bond reserve account which may be established on a future date) and the general obligation bond payment fund, there shall be transferred to the improvement fund such additional funds as shall be necessary to keep the system in proper repair and working order. If at any time it shall be necessary to use moneys in the improvement fund for the purpose for which the improvement fund was established, the moneys so used shall be replaced from any moneys in the receiving fund which are not required by this section to be used for the operation and maintenance fund, the revenue bond redemption fund (including any bond reserve account which may be established on a future date) or the general obligation bond payment fund.
- (5) *Surplus moneys.* Thereafter, any revenues in the receiving fund after satisfying all the foregoing requirements of this section may, at the discretion of the city, be transferred to the improvement fund or used for any other purpose permitted by law.

(Ord. No. 697, § 1, 6-2-08)

Sec. 34-260. Priority of funds.

In the event the moneys in the receiving fund are insufficient to provide for the current requirements of the operation and maintenance fund, the revenue bond redemption fund or the general obligation bond payment fund, any moneys or securities in other funds of the system, except the proceeds of sale of any bonds, shall be

credited or transferred, first, to the operation and maintenance fund, and second, if the moneys on deposit in the operation and maintenance fund are sufficient to meet the requirements of the operation and maintenance fund, shall be credited or transferred to the revenue bond redemption fund (including any bond reserve account which may be established on a future date) or the general obligation bond payment fund and finally to the improvement fund.

(Ord. No. 697, § 1, 6-2-08)

Sec. 34-261. Depository and funds on hand.

Moneys in the several funds and the accounts established pursuant to this section, except moneys in the revenue bond redemption fund (including any bond reserve account which may be established on a future date) and the general obligation bond payment fund and moneys derived from the proceeds of sale of any bonds, may be kept in one bank account at a bank or banks designated by resolution of the city, and if kept in one bank account the moneys shall be allocated among the several funds on the books and records of the city in the manner and at the times provided in this section.

(Ord. No. 697, § 1, 6-2-08)

Sec. 34-262. Investments.

Moneys in the funds and accounts established herein may be invested by the city in United States of America obligations or in obligations the principal of and interest on which is fully guaranteed by the United States of America and any other investments hereafter permitted by law. If the moneys invested are kept in one account, as provided in sec. 34-261 of this Code, then the monies shall be allocated among the several funds on the books and records of the city in the manner and at the times provided in this section. Investment of moneys in the revenue bond redemption fund or the general obligation bond payment fund being accumulated for payment of the next maturing principal or interest payment of bonds shall be limited to obligations bearing maturity dates prior to the date of the next maturing principal or interest payment on the bonds.

In the event investments are made, any securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds or account from which the purchase was made. Gains realized or interest income earned on investment of funds in the receiving fund, the operation and maintenance fund, and the improvement fund shall be deposited in or credited to the receiving fund at the end of each fiscal year. Gains realized on interest income earned on investment of moneys in the revenue bond redemption fund (including income derived from any bond reserve account which may be established on a future date) or the general obligation bond payment fund, shall be credited as received to the such fund, provided that any bond reserve account therein is fully funded.

(Ord. No. 697, § 1, 6-2-08)

Sec. 34-263. Covenants.

The city covenants and agrees with the holders of the bonds as follows as long as any of the bonds remain outstanding and unpaid as to either principal or interest:

- (1) The city will maintain the system in good repair and working order and will operate the same efficiently and will faithfully and punctually perform all duties with reference to the system required by the Constitution, Michigan state law, and the city's charter and ordinances.

- (2) The city will keep proper books of record and account separate from all other records and accounts of the city, in which shall be made full and correct entries of all transactions relating to the system in accordance with state law. The city shall have an annual audit (or, if permitted by state law, an audit every two years) of the books of record and accounts of the system for the preceding operating year made each year by an independent certified public accountant.
- (3) The city will maintain and carry, for the benefit of the holders of the bonds, insurance on all physical properties of the system and liability insurance, of the kinds and in the amounts normally carried by municipalities engaged in the operation of similar sanitary sewage disposal systems, including self-insurance.
- (4) The city will not sell, lease or dispose of the system, or any substantial part of the system, until all of the principal and interest on bonds have been paid in full or provision made therefor as herein provided. The city will operate the system as economically as possible, will make all repairs and replacements necessary to keep the system in good repair and working order, and will not do or suffer to be done any act which would affect the system in such a way as to have a material adverse effect on the security for the bonds.
- (5) The city will not grant any franchise or other rights to any person, firm or corporation to operate a system that will compete with the system.
- (6) The city will cause the project to be acquired and constructed promptly and in accordance with the plans and specification therefor.

(Ord. No. 697, § 1, 6-2-08)

Sec. 34-264. Revenue bonds.

The right is reserved to issue revenue bonds payable from the revenues of the system in accordance with the provisions of Act 94, which shall have a statutory lien on the net revenues of the system.

(Ord. No. 697, § 1, 6-2-08)

Secs. 34-265--34-299. Reserved.

ARTICLE VI.

GAS FRANCHISE

Sec. 34-300. Grant, term.

The city hereby grants to the Consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called "grantee," the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges, waterways, and other public places, and to do a local gas business in the city for a period of thirty (30) years.

(Ord. No. 664, § 1, 12-6-04)

Sec. 34-301. Consideration.

In consideration of the rights, power and authority hereby granted, said grantee shall faithfully perform all things required by the terms hereof.

(Ord. No. 664, § 1, 12-6-04)

Sec. 34-302. Conditions.

No highway, street, alley, bridge, waterway or other public place used by said grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of grantee's pipes and mains shall be so placed in the highways and other public places as not to unnecessarily interfere with the use thereof for highway purposes.

(Ord. No. 664, § 1, 12-6-04)

Sec. 34-303. Hold harmless.

Said grantee shall at all times keep and save the city free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures and equipment hereby authorized. In case any action is commenced against the city on account of the permission herein given, said grantee shall, upon notice, defend the city and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

(Ord. No. 664, § 1, 12-6-04)

Sec. 34-304. Extensions.

Said grantee shall construct and extend its gas distribution system within said city and shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations.

(Ord. No. 664, § 1, 12-6-04)

Sec. 34-305. Franchise not exclusive.

The rights, power and authority herein granted are not exclusive. Either manufactured or natural gas may be furnished hereunder.

(Ord. No. 664, § 1, 12-6-04)

Sec. 34-306. Rates.

Said grantee shall be entitled to charge the inhabitants of said city for gas furnished therein, the rates as approved by the Michigan Public Service Commission, to which commission or its successors authority and jurisdiction to fix and regulate gas rates and rules regulating such service in said city, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said city, acting by its city council, or by said grantee.

(Ord. No. 664, § 1, 12-6-04)

Sec. 34-307. Revocation.

The franchise granted by this article is subject to revocation upon sixty (60) days' written notice by the party desiring such revocation.

(Ord. No. 664, § 1, 12-6-04)

Sec. 34-308. Michigan public service commission; jurisdiction.

Said grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas service in said city.

(Ord. No. 664, § 1, 12-6-04)

Sec. 34-309. Repealer.

This article, when accepted and published as herein provided, shall repeal and supersede the provisions of a gas ordinance adopted by the city on December 16, 1974 entitled:

AN ORDINANCE, granting to CONSUMERS POWER COMPANY, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas business in the CITY OF OWOSSO, SHIAWASSEE COUNTY, MICHIGAN, for a period of thirty years.

and amendments, if any, to such ordinance whereby a gas franchise was granted to Consumers Energy Company.

(Ord. No. 664, § 1, 12-6-04)

Sec. 34-310. Assignment.

Grantee shall not assign this franchise to any other person, firm or corporation without the prior written approval of the city. The city shall not unreasonably withhold its consent to an assignment if the assignee is financially able to carry out grantee's obligation under this franchise. This assignment of this franchise to a subsidiary, division or affiliated corporation of grantee or its parent corporation shall not be considered an assignment requiring the consent of city.

(Ord. No. 664, § 1, 12-6-04)

Sec. 34-311. Compliance with Charter and ordinances.

During the term of this franchise, grantee shall comply with all applicable City Charter provisions and ordinances, provided, however, that nothing herein shall be construed as a waiver by grantee of any of its existing or future rights under state or federal law.

(Ord. No. 664, § 1, 12-6-04)

Sec. 34-312. Effective date.

This article shall take effect twenty (20) days after the date of its adoption; provided, however, it shall cease and be of no effect after thirty (30) days from its adoption unless within said period grantee shall accept

the same in writing filed with the city clerk. Upon acceptance and publication hereof, this article shall constitute a contract between said city and said grantee.
(Ord. No. 664, § 1, 12-6-04)