

## CHAPTER 3. MUNICIPAL AND PUBLIC UTILITIES

### Section 300 – RULES AND REGULATIONS, RATES, CHARGES AND COLLECTIONS

300.01 Definitions. Unless the context indicates otherwise, the following terms have the stated meanings:

Subd. 1 Utility. All utility services, including but not limited to gas, water, electric, sewer, and refuse services, whether public City-owned facilities or furnished by public utility companies.

Subd. 2 Municipal Utility. Any City-owned utility system, including but not limited to water, sewer and refuse service.

Subd. 3. Company, Grantee and Franchisee. Any public utility system to which a franchise has been granted by the City.

Subd. 4. Consumer and Customer. Any user of a utility

Subd. 5. **Public Utility**. A public utility shall include any municipal utility or other utility owned or operated by a governmental entity or by any person, corporation, or other legal entity, for the purpose of providing utility services as defined in subdivision 1 to the residents of the city.

Subd. 6 Service. Providing a particular utility to a customer or consumer.

300.02 Fixing Rates And Charges For Municipal Utilities. All rates and charges for municipal utilities, including but not limited to rates for service, permit fees, connection and meter reading fees, disconnection fees, reconnection fees including penalties for non payment if any, shall be fixed, determined and amended by the Council and adopted by resolution. Such resolution, containing the effective date of the resolution, shall be kept on file and open to inspection in the office of the City Clerk and shall be uniformly enforced.

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

Subd. 1 Council Approval Required. No rate or charge involving an increase shall become effective until approved by the Council. To request such increase the franchisee shall prepare its written petition setting forth the then current and proposed rates and charges, the effective date of the proposed increases (which may not be within ninety days of filing the petition), and the reason necessitating the proposed increase or

increases. Such petition shall be filed with the Council by serving the same on the City Clerk in person or by certified mail, return receipt requested.

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

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

Subd. 4 Notice. Notice of hearing shall be in the form and manner stated in the resolution. At the hearing all persons wishing to be heard shall be afforded a reasonable opportunity. Findings and a decision shall be made by the Council within fifteen days after the hearing, and severed upon the franchisee.

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

Subd. 1 Discontinuance of Service. All municipal utilities may be shut off or discontinued whenever it is found that:

- A. The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any requirement of the City Code, or any connection, or,
- B. Any charge for a municipal utility service, or any other financial obligation imposed on the present owner or occupant of the premises served, is unpaid after due notice has been give, or,
- C. There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges.

Subd. 2 Billing, Payment and Delinquency. All municipal utilities shall be billed monthly or quarterly and a utilities statement or statements shall be mailed to each consumer each month or quarter. All utilities charges shall be delinquent if the are unpaid at the close of business on the 15<sup>th</sup> day following such billing, provided, that if the 15<sup>th</sup> day shall fall on a Saturday, Sunday or legal holiday, the time shall be extended to

the close of business on the next succeeding day on which business is normally transacted. A late payment penalty if \$25.00 per delinquent payment shall be added to, and become part of, all delinquent utility bills. If service is suspended due to delinquency it shall not be restored at that location until a reconnection charge has been paid for each utility reconnected in addition to amounts owed for service and penalties. Utility service shall be suspended after the 1<sup>st</sup> month past due. At least 10 days prior to the utility shutoff the municipality must serve notice of the impending shutoff, including the date the utility will be shut off, upon the delinquent utility user. Notice of the impending utility shutoff shall be by first class mail. Notice shall be sent to the address where the service is rendered and to the address where the bill is sent if different from the address where the service is rendered. A representative of the City of Kilkenny must make an affidavit under oath that he deposited in the mail the notice properly addressed to the customer. In lieu of mailing, notices may be delivered by a representative of the City. Such notices must be in writing and receipt of them must be signed by the customer, if present, or some other member of the customer's family of the responsible age or the City representative must make an affidavit under oath that he delivered the notice to the customer or his residence. A record of all notices and all affidavits required by this ordinance shall be kept on file by the City and must be made available to the public. The utility shutoff notices shall contain the date on or after which utility shutoff will occur, reason for shutoff, and methods of avoiding shutoff in normal, easy to understand language. All notices required by this ordinance must precede the action to be taken by at least thirty days excluding Sundays and legal holidays. The utility shutoff notice shall also contain the following language informing the utility user that the individual has a right to a hearing on the issue of utility shutoff before the City Council by delivering written notice of this request to the City Clerk at least three calendar days prior to the scheduled shutoff date. The utility user shall then be heard before the City Council at the next regularly scheduled meeting. The utility user's failure to deliver written notice to the City Clerk at least three calendar days prior to the scheduled shutoff date constitutes a waiver of the utility user's right to a hearing on the issue before the City Council. At the hearing the City Council shall determine whether the scheduled utility shutoff shall occur on the scheduled date, whether it should be delayed, or whether it should not occur at all. If the next regularly scheduled City Council meeting shall occur after the date of the scheduled utility shutoff, the utility shutoff shall be delayed until after the next regularly scheduled City Council meeting." If service is suspended, due to delinquency, it shall not be restored at that location until a re-connection fee of \$25.00 has been paid for each utility re-connected in addition to amounts owed for service and penalties. Notice to the utility user under this section is in addition to and in conjunction with the notice required in addition to Subdivision 6.

Subd. 3 Water Shutoff for Other Reasons. In the event a customer's water meter is located inside the building the City of Kilkenny, through its employees or agents shall have reasonable access to read the meter on a regular basis. The customer's failure to permit the appropriate City representative to read the meter shall result in the City shutting off the customer's water at the box upon proper notice given to the customer in conformance with the notice required in Subdivision 2.

Subd. 4 Cold Weather Rule: Municipal Utilities.

A. Application: Notice to Residential Customers.

1. The municipal utility shall not disconnect utility service of a residential customer if the discontinuation affects the primary heat source for the residential unit when the following conditions are met: (1) The disconnection would occur during the period between October 15 and April 15; (2) The customer has declared inability to pay on forms provided by the utility; (3) The household income of the customer is less than 185 per cent of the federal poverty level, as documented by the customer to the utility; (4) The customer's account is current for the billing period immediately prior to October 15 or the customer has entered into a payment schedule and is reasonably current with payments under the schedule; and (5) The burden of showing the disconnection would affect the primary heat source for the residential unit is on the resident and can be met by permitting the City building inspector to inspect the residence's heating source to verify the resident's claim that it is the primary heating source and that it is the type of heating source contemplated by this subdivision.

2. A municipal utility or a cooperative electric association must, between August 15 and October 15 of each year, notify all residential customers of the provisions of this section.

B. Notice to Residential Customer Facing Disconnection. Before disconnecting service to a residential customer during the period between October 15 and April 15, the municipal utility shall provide the following information to a customer (1) A notice of proposed disconnection; (2) A statement explaining the customer's rights and responsibilities; (3) A list of local energy assistance providers; (4) Forms on which to declare inability to pay; and (5) A statement explaining available time payment plans and other opportunities to secure continued utility service.

C. Restrictions if Disconnection Necessary. (a) If a residential customer may be involuntarily disconnect between October 15 and April 15 for failure to comply with the provisions of Subdivision 1, the disconnection must not occur on Friday or on the day before a holiday. Further, the disconnection must not occur until at least twenty days after the notice required in Subdivision 2 has been mailed to the customer or fifteen days after the notice has been personally delivered to the customer. (b) If a customer does not respond to a disconnection notice, the customer must not be disconnected until the utility investigates whether the residential unit is actually occupied. If the unit is found to be occupied, the utility must immediately inform the occupant of the provisions of this section. If the unit is unoccupied, the utility must give seven days written notice of the proposed disconnection to the local energy assistance provider before making a

disconnection. (c) If, prior to disconnection, a customer appeals a notice of involuntary disconnection, as provided by the utility's established appeal procedure, the utility must not disconnect until the appeal is resolved.

Subd. 5 Application, Connection and Sale of Service. Application for municipal utility services shall be made on forms supplied by the City, and strictly in accordance with the form. No connection shall be made until consent has been received from the City to make the same. All municipal utilities shall be sold and delivered to consumers under the then applicable rate applied to the amount of such utilities taken as metered or ascertained in connection with such rates.

Subd. 6 Ownership of Municipal Utilities. Ownership of all municipal utilities, plants, lines, mains, extensions and appurtenances thereto, shall be and remain in the City and no person shall own any part of portion thereof, except that the service line from the main to the property owner's house or other structure connected to the main shall be considered to belong to the property owner. Provided further, however, that private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership.

Subd. 7 Right of Entry. The City has the right to enter in and upon private property, including buildings and dwelling houses, in or upon which is installed a municipal utility or connection therewith, at all times reasonable under the circumstances; for the purpose of inspection and repair of meters or a utility system, and for the purpose of connecting and disconnecting service. If the property owner refuses to permit the City's employee or agent on the private property to read meters it shall constitute a violation of the landowner's duty under this Chapter and the City shall have the right therefore to shut off utility service to that property until such time as the meter reading by the City is permitted by the landowner. The procedures for the shutoff, for reconnection after the shutoff and for all other expenses shall be those set out elsewhere in this Chapter for non-payment of utility charges.

Subd. 8 Meter Test. Whenever a customer shall request the City to test any utility meter in use by the consumer, such a request shall be accompanied by a testing fee which shall be established from time to time by the Council resolution. If any such meter is found to be inaccurate the same shall be replaced with an accurate meter and the fee refunded. If the meter shall be found to be accurate in its recordings or calculations it shall be reinstalled and the fee shall be retained by the City to defray the cost of such test.

Subd. 9 Unlawful Acts.

A. It is unlawful for any person to wilfully or carelessly break, injure, mar, deface, disturb, or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture, or appurtenance of any municipal utility or municipal utility system, or commit any act tending to obstruct or impair the use of any municipal utility.

B. It is unlawful for any person to make any connection with opening into, use, or alter in any way any municipal utility system without first having applied for and received written permission to do so from the City.

C. It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the City for non-payment of a bill, or for any other reason, without first having obtained a permit to do so from the City.

D. It is unlawful for any person to “jumper” or by any means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume unmetered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.

Subd. 10 Municipal Utility Charges a Lien.

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

B. Each such charge is made a lien upon the premises served. All such charges which are on August 31 of each year more than thirty days past due, may be certified by the City Clerk to the County Auditor on or before November 30 of each year, and the City Clerk in so certifying such charges to the County Auditor shall specify the amount, the description of the premises served, and the name of the owner. The amount so certified shall be extended by the Auditor on the tax rolls against such premises in the same manner as other taxes, and collected by the County Treasurer, and paid to the City along with other taxes.

Subd. 11 Municipal Utility Service Outside the City. Premises located outside the City shall not be connected to or served by any municipal utility, except such premises as are publicly owned or presently served. Persons needing municipal utility service whose property is located outside the corporate limits must initiate and complete annexation proceedings in advance prior to being provided with such service or services.

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

## Section 305 – RULES AND REGULATIONS RELATING TO WATER SERVICE

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

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

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

305.04 Service Pipes. Every service pipe must be laid in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than seven feet below the surface in all cases so arranged as to prevent rupture and stoppage by freezing. Frozen service pipes between the curb stop and the building shall be the responsibility of the owner. Service pipes must extend from the curb stops to the inside of the building; or if not taken into a building then to the hydrant or other fixtures which they are intended to supply. A valve, the same size as the service pipe, shall be placed close to the inside wall of the building, ahead of the meter and well protected from freezing. Joints on copper tubing shall be flared and kept to a minimum. Not more than one joint shall be used for a service up to seventy feet in length. All joints shall be left uncovered until inspected. Minimum size connection with the water mains shall be  $\frac{3}{4}$  inch in diameter. If old lead service lines have to be replaced, or in the event of a street being opened, repaired, or reconstructed, all old lead service lines must be replaced with copper or approved plastic service lines at the expense of the owner.

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

305.06 Restricted Hours for Sprinkling. Whenever the City shall determine that a shortage of water threatens the City, it may limit the times and hours during which water may be used from the City water system for lawn and garden sprinkling, irrigation, car washing, air conditioning, and other uses, or either or any of them. It is unlawful for any water consumer to cause or permit water to be used in violation of such determination after public announcement has been made through the news media specifically indicating the restrictions.

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

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

305.09 Unmetered Service. Unmetered serviced may be provided for construction, flooding skating rinks, and any other specified purpose. Such service shall be at a duly adopted rate. Where it is difficult or impossible to accurately measure the amount of water taken, unmetered service may be provided and the unmetered rate applied; provided, however, that by acceptance the consumer agrees to have the City estimate the water used. In so estimating the City shall consider the use to which the water is put and the length of time of unmetered service.

305.10 Water Meters. All water meters exceeding one inch in size shall be purchased and maintained by the property owner. All repairs of water meters not resulting from normal usage shall be the responsibility of the property owner, as shall any maintenance and repair of meters which are not of the remote reading type. Any meter twenty years old, or older, or in need of replacement, shall be replaced with a remote type which shall be purchased by the property owner and shall be the maintenance responsibility of the City. All water meters shall be installed and controlled by the City. All water meters shall be installed and controlled by the City and the cost of installation shall be the responsibility of the property owner. Any remote type meter in need of



replacement by reason of normal usage shall be furnished by the City, installed at the expense of the property owner, and the City shall thereafter own such meter.

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

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

Section 310 – RULES AND REGULATIONS RELATING TO SEWER SERVICE AND WASTEWATER TREATMENT.

310.01 General Provisions.

Subd. 1 Purpose and Policy. This Section sets forth uniform requirements for discharges into the City's wastewater disposal system and enables the City to comply with all State and Federal laws. The objectives of this Section are:

- A. To prevent the introduction of pollutants into the wastewater disposal system which will interfere with the operation of the system or the use or disposal of the sludge;
- B. To prevent the introduction of pollutants into the wastewater disposal system which will pass through the system inadequately treated into receiving waters or the atmosphere or otherwise be incompatible with the system; and,
- C. To improve the opportunity to recycle and reclaim wastewater and sludge from the system.

Subd. 2 Issuance of Permits. This Section provides for the regulation of discharges into the City's wastewater disposal system through the issuance of permits to certain users and through enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this Section.

Subd. 3 Enforcement. This Section shall apply to the residents of the City and to persons outside the City who are, by contract or agreement with the City, users of the wastewater disposal system. Except as otherwise provided herein, the Council shall administer, implement and enforce the provisions of this Section.

310.02 Definitions. Unless the context indicates otherwise, the following terms have the stated meanings:

Subd. 1 Act. The Federal Water Pollution Control Act also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

Subd. 2 Biochemical Oxygen Demand (BOD5). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Centigrade expressed in terms of weight and concentration (milligrams per litre (mg/l)).

Subd. 3 Superintendent. The Superintendent of wastewater disposal system or the person's duly authorized representative.

Subd. 4 Industrial User. A person who discharges to the wastewater disposal system liquid wastes resulting from the processes employed in industrial, manufacturing, trade, or business establishments. Or from the development of any natural resource.

Subd. 5 Interference. The inhibition or disruption of the wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the City's NPDES or State Disposal /System Permit. The term includes prevention of sewage sludge use of disposal by the City in accordance with published regulations providing guidelines under Section 405 of the Act (33 U.S.C. 1251 et seq) or any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria applicable to the method of disposal or use employed by the City.

Subd. 6 National Pollutant Discharge Elimination System (NPDES) Permit. Any permit or requirements issued by the Minnesota Pollution Control Agency (MPCA) pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq); for the purpose of regulating the discharge of sewage, industrial wastes, or other wastes under the authority of Section 403 of the Act.

Subd. 7 Non-Contact Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added to the water is heat.

Subd. 8 Person. The State or any agency or institution thereof, any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity, including, but not limited to association, commission or any interstate body, and including any officer or governing or managing body of any municipality, governmental subdivision or public or private corporation, or other entity.

Subd. 9 pH. The logarithm of the reciprocal of the concentration of hydrogen ions in grams per litre of solution.

Subd. 10 Pretreatment. The process of reducing the amount of pollutants, eliminating pollutants, or altering the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the wastewater disposal system. The reduction, elimination, or alteration may be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by 310.03, Subd. 2, of this Section.

Subd. 11 Significant Industrial User. Any industrial user of the wastewater disposal system which (i) has a discharge flow of 25,000 gallons or more per average work day, or (ii) has a flow greater than 5% of the flow in the wastewater disposal system, or (iii) has in its wastes toxic pollutants as defined pursuant to Section 307 of the Act or Minn. Stat.

And rules, or (iv) has a significant impact, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

Subd. 12 State Disposal System Permit. Any permit (including any terms, conditions and requirements thereof), issued by the MPCA pursuant to Minn. Stat. Section 115.07 for a disposal system as defined by Minn. Stat. Section 115.01, Subd. 8.

Subd. 13 Storm Water. Any flow occurring during or following any form of natural precipitation and resulting there from.

Subd. 14 Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by a standard glass fibre filter.

Subd. 15 User. Any person who discharges, causes or permits the discharge of wastewater into the wastewater disposal system.

Subd. 16 Wastewater. The liquid and water; carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions; together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the wastewater disposal system.

Subd. 17 Wastewater Disposal System or System. Any devices, facilities, structures, equipment or works owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of industrial and domestic wastewater or necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection system, pumping, power and other equipment, and their appurtenances; extensions, improvements, remodelling, additions, and alterations thereof, elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

Subd. 18 Waters of the State. All streams, lakes, ponds, marshes, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

### 310.03 Regulations.

#### Subd. 1 General Discharge Prohibitions.

A. No user shall discharge or cause to be discharged, directly or indirectly, any of the following described substances into the wastewater disposal system or to any public sewer:

1. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system, or at any point in the system, be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulphides.
2. Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or issues, paunch manure, bones, hair, hides or flashings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, gas tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.
3. Any wastewater having a pH less than 5.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater disposal system.
4. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interacting with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act.
5. Any noxious or malodorous liquids gases, or solids which either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
6. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

7. Any wastewater which creates conditions at or near the wastewater disposal system which violate any statute, City Code provision, or any rule or regulation of any public agency or State or Federal regulatory body.

8. Any wastewater having a temperature greater than 150 degrees F (65.6 degrees C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104 degrees F (40 degrees C).

9. Any slug load, which shall mean any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge of such volume or strength as to cause inhibition or disruption in the wastewater disposal system. In no case shall a slug load have a flow rate or contain concentrations or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations, quantities, or flow of the user during normal operation.

10. Non-contact cooling water or unpolluted storm or groundwater.

11. Any wastewater containing fats, wax, grease, or oils, whether emulsified or not, in excess of 150 mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees C and 65.6 degrees C); and any wastewater containing oil grease concentrations of mineral origin of greater than 100 mg/l, whether emulsified or not.

12. Wastewater containing inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulphate) in such quantities that they would cause disruption with the wastewater disposal system.

13. Any wastewater having a BOD<sub>5</sub> greater than 250 mg/l or having a suspended solids concentration of greater than 300 mg/l.

B. In addition to these prohibitions, no user shall discharge to any public sewer any discharge which causes interference, as defined, with the wastewater disposal system. Pollutants in the effluent from an industrial user shall not be considered to cause interference where the industrial user is in compliance with specific prohibitions or standards developed by Federal, State, or local governments. Where the industrial user is in compliance with such specific prohibitions or standards, and pollutants in the effluent from the industrial user's facility nevertheless are determined to have caused or significantly contributed to a violation of any requirement of the NPDES or State Disposal System Permit, and are likely to cause such a violation in the future, the City must

take appropriate action to develop and enforce specific effluent limits for that industrial user to ensure renewed and continued compliance with the NPDES or State Disposal System Permit.

Subd. 2 Limitations on Wastewater Strength

A. National Categorical Pretreatment Standards. National categorical pre-treatment standards promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all users which are subject to such standards in any instance where they are more stringent than the limitations in this Section unless the Council has applied for and obtained from the MPCA approval to modify the specific limits in the national categorical pre-treatment standards. When requested, an application for modification of the national categorical pre-treatment standards will be considered for submittal by the Council when the wastewater treatment system achieves consistent removal of the pollutants. "Consistent removal" shall be defined as in 40 CFR 403.7(a)(1) of the "General Pretreatment Regulations for Existing and New Sources of Pollution". Conditional revisions of national categorical pre-treatment standards may be made by the City in accordance with 403.7(b)(2)(i-iv) of the "General Pretreatment Regulations for Existing and New Sources of Pollution" if requested by the industry(ies) in accordance with requirements of 403.7(b)(1)(i).

B. State Requirements. State requirements and limitations on discharges shall be met by all users which are subject to such standards in any instance in which they are more stringent than Federal requirements and limitations or those in this or any other applicable City Code provision.

C. City's Right of Revision. The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in

310.01.

D. Dilution. No user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this Section, contained in the national categorical pre-treatment standards, or contained in any State requirements.

E. Supplementary Limitations. It is unlawful for any person to discharge wastewater containing in excess of:

- 3.5 mg/l arsenic
- 1.2 mg/l cadmium
- 4.5 mg/l copper
- 2.8 mg/l cyanide

0.6 mg/l lead  
0.5 mg/l mercury  
4.1 mg/l nickel  
4.2 mg/l silver  
7.0 mg/l total chromium  
4.2 mg/l zinc  
1.0 mg/l phenolic compounds which cannot be removed by the wastewater treatment process.

Subd. 3 Accidental Discharges. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Section. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owners or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Council for review, and shall be approved by the Council before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this Section. Users shall notify the Wastewater Superintendent immediately upon having a slug or accidental discharge of substances or wastewater in violation of this Section in order to enable counter-measures to be taken by the Superintendent to minimize damage to the wastewater disposal system and the receiving waters. Such notification will not relieve users of liability for any expense, loss or damage to the wastewater disposal system or treatment process, or for any fines imposed on the City on account thereof under any State or Federal law. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a slug or accidental discharge. Employers shall insure that all employees who may cause or discover such a discharge are advised of the emergency notification procedure.

#### 310.04 Fees.

Subd. 1 Purpose. It is the purpose of this subsection to provide for the recovery of costs from users of the wastewater disposal system for the implementation of the program established in this Section. The applicable charges or fees shall be set forth in the Schedule of Charges and Fees, to be adopted from time to time by Council resolution.

Subd. 2 Charges and Fees. The Council shall adopt charges and fees which may include:

- A. Fees for monitoring, inspections and surveillance procedures;
- B. Fees for permit applications;
- C. Appeal fees; and
- D. Other fees as the Council may deem necessary to carry out the requirements contained herein.



### 310.05 Administration.

Subd. 1 General User Reports. The Superintendent may require that any person discharging or proposing to discharge wastewater to the wastewater disposal system file a periodic discharge report. The discharge report may include, but not be limited to, nature of process, rates of flow, mass discharge rate, raw material and production quantities, hours of operation, number and classification of employees, compliance status with any State or Federal pre-treatment standards, or other information which relates to the generation of waste, including wastewater constituents and concentrations in the wastewater discharge. Such reports may also include sludge disposal practices and the chemical constituents and quantify of liquid or gaseous materials stored on site, even though they may not normally be discharged. At a minimum, a summary of such data indicating each industrial user's compliance with this Section shall be prepared quarterly and submitted to the Superintendent. In addition to discharge reports, the Council may require information in the form of Wastewater Discharge Permit applications, self-monitoring reports, and compliance schedules.

#### Subd. 2 Wastewater Discharge Permits.

A. Mandatory Permits. All industries proposing to connect or to commence a new discharge to the Wastewater Discharge Permit before connecting to or discharging into the wastewater disposal system if the discharge would result in the industry being classified as a significant industrial user. All existing significant industrial users or industrial users subject to national categorical pre-treatment standards under Section 307(b) and (c) of the Act connect to or discharging into the wastewater disposal system shall obtain a Wastewater Discharge Permit within 180 days after the effective date of this Section.

B. Permit Application. Users required to obtain a Wastewater Discharge Permit shall complete and file with the Council, an application in the form prescribed by the Council, and accompanied by a fee as determined by the Council. Existing users shall apply for a Wastewater Discharge Permit within 30 days after the effective date of this Section, and proposed new users shall apply at least 180 days prior to connecting or discharging to the wastewater disposal system. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information.

1. Name, address and location (if different from the address);
2. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
3. Wastewater constituents and characteristics including, but not limited to, those governed by 310.02 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with

procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;

4. Time and duration of discharge;
5. Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
7. Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged, including sledges, floats, skimming, etc;
8. Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State or national categorical pre-treatment standards, and (for an existing discharge) a statement regarding whether or not the pre-treatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and/or additional pre-treatment is required for the user to meet applicable pre-treatment standards. If additional operation and maintenance and/or pre-treatment will be required, a proposed schedule by which the changes will be completed shall be submitted. The completion date in this schedule shall not be later than the compliance date established by the applicable pre-treatment standard. No increment shall exceed nine months in length, and progress reports concerning each increment shall be submitted within fourteen days following each increment date;
9. Each product produced by type, amount, and rate of production;
10. Type and amount of raw materials processed (average and maximum per day);
11. Number of full and part time employees, and hours of work; and,
12. Any other information as may be deemed by the Council to be necessary to evaluate the permit application.

The Council will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Council may issue a Wastewater Discharge Permit subject to terms and conditions provided in this Section.

C. Permit Conditions. Wastewater Discharge Permits shall be expressly subject to all provisions of this Section and all other applicable regulations, user charges and fees established by the City. Permits may contain the following:

1. The unit charge or schedule of user charges and fees for the wastewater to be discharged to the wastewater disposal system;
2. Limits on the average and maximum wastewater constituents and characteristics;
3. Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;
4. Requirements for installation and maintenance of inspection and sampling facilities;
5. Requirements for installation, operation, and maintenance of pre-treatment facilities;
6. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule;
7. Compliance schedules;
8. Requirements for submission of technical reports or discharge reports;
9. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Council, but in no case less than three years, and affording Council access to such records;
10. Requirements for notification to and acceptance by the Council of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
11. Requirements for notification of slug or accidental discharges as provided in Subd. 3, of Subsection 310.02, and reporting of permit violations;
12. Requirements for disposal of sludges, floats, skimmings, etc;
13. Other conditions deemed appropriate by the City to ensure compliance with this Section.

D. Permit Duration. Permits shall be issued for a specified time period, not to exceed five (5) years. The user shall apply for permit re-issuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the Council during the term of the permit as limitations or requirements as identified in Subd. 2 of this Subsection are modified or other just cause exists. The user shall be informed of any proposed changes in the permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

E. Permit Modifications. Within nine months of the promulgation of a national categorical pre-treatment standard, the Wastewater Discharge Permit of users subject to such standard shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pre-treatment standard, as not previously submitted an application for a Wastewater Discharge Permit as required by Subd. 2 of this Subsection 310.04, the user shall apply for a Wastewater Discharge Permit within 180 days after the promulgation of the applicable national categorical pre-treatment standard. In addition, the user with an existing Wastewater Discharge Permit shall submit to the Council within 180 days after the promulgation of an applicable national categorical pre-treatment standard the information required by Subsection 310.04, Subd. 2, B, 8. If the information previously submitted in an application is still current and adequate, only a letter from the user certifying such is required.

F. Permit Transfer. Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the Council. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

### Subd.3 Monitoring Facilities

A. Monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems shall be provided and operated by all industrial users. The monitoring facility should normally be situated on the user's premises, but the Council may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

B. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and compositing of samples for analysis. The facility and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

C. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Council's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety days following written notification by the Council, unless a time extension is otherwise granted by the Council.

Subd. 4 Inspection and Sampling. The Superintendent shall inspect the facilities of any user to ascertain whether the purpose of this Section is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Superintendent ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The Superintendent, MPCA and EPA 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. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with any security guards so that upon presentation of suitable identification, the Superintendent, MPCA and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

Subd. 5 Pretreatment

A. Users shall provide necessary wastewater treatment as required to comply with this Section and shall achieve compliance with all national categorical pre-treatment standards within the time limitations as specified by the Federal pre-treatment regulations. Any facilities required to pre-treat wastewater shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pre-treatment facilities and operating procedures shall be submitted to the Council for review, and shall be acceptable to the Council before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Superintendent under the provisions of this Section. Any subsequent changes in the pre-treatment facilities or method of operation shall be reported to and be acceptable to the Council prior to the user's initiation of the changes.

B. All records relating to compliance with pre-treatment standards shall be made available by the Superintendent to officials of the EPA or MPCA upon request.

C. Any user subject to a national categorical pre-treatment standard, after the compliance date of such pre-treatment standard, or, in the case of the commencement of a new discharge to the wastewater disposal system, shall submit to the Superintendent during the months of June and December, unless required more frequently in the pre-treatment standard or by the Council, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pre-treatment standards. In addition, this report shall include a

record of all daily flows which during the reporting period exceeded the average daily flow reported in Subd. 1 or Subd. 2 of this Subsection 310.04. The Council may agree to alter the months during which the above reports are to be submitted.

Subd. 6 Final compliance Date Reporting Requirements. Within ninety days following the date for final compliance with applicable pre-treatment standards or, in the case of the commencement of a new discharge to the wastewater disposal system, any user subject to pre-treatment standards and requirements shall submit to the Council a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pre-treatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pre-treatment standards or requirements. The report shall state whether the applicable pre-treatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pre-treatment is necessary to bring the facility into compliance with the applicable pre-treatment standards or requirements. This statement shall be signed by the user, and certified to by a qualified professional.

Subd. 7 Confidential Information

A. Information and data on a user obtained from applications, permits, monitoring programs and inspections shall be available to the public or other government agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Council that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

B. When requested by the person furnishing a report, and until such time as the information is determined not to be confidential, the portions of a report which might 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 Section, the NPDES Permit, State Disposal System Permit, and/or the pre-treatment 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 person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the Council as confidential, shall not be transmitted to any governmental agency or to the general public by the Council until and unless a den-day notification is given to the user.

Subd. 8 Sludges Generated. Sludges, floats, skimmings, etc., generated by an industrial or commercial pre-treatment system shall not be placed into the wastewater disposal system. Such sludges shall be contained, transported, and disposed of in accordance with all Federal, State, and local regulations.

310.05 Enforcement

Subd. 1 Slug or Accidental Discharges

A. The Council may suspend the wastewater treatment service of a user and/or a Wastewater Discharge Permit (after informal notice to the discharger) when such suspension is necessary, in the opinion of the Superintendent, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or to the wastewater disposal system, or would cause the City to violate any condition of its NPDES or State Disposal System Permit.

B. Any user notified of a suspension of the wastewater treatment service and/or the Wastewater Discharge Permit shall immediately stop the discharge. In the event of a failure of the user to comply voluntarily with the suspension order, the Council shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the wastewater disposal system or endangerment to any individuals. The Council shall reinstate the Wastewater Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the slug or accidental discharge and the measures taken to prevent any future occurrence shall be submitted to the Superintendent within fifteen days of the date of occurrence.

Subd. 2 Revocation of Permit. In accordance with the procedures of this Section, the Council may revoke the permit of any user which fails to factually report the wastewater constituents and characteristics of the discharge; which fails to report significant changes in wastewater constituents or characteristics; which refuses reasonable access to the user's premises for the purpose of inspection or monitoring or for violation of conditions of its permit, this Section, or applicable State and Federal regulations.

Subd. 3 Notification of Violation. Whenever the Superintendent finds that any person has violated or is violating this Section, Wastewater Discharge Permit, or any prohibition, limitation or requirement contained herein, the Council may serve upon such person a written notice stating the nature of the violation. Within thirty days of the date of the notice, unless a shorter time frame is necessary due to the nature of the violation, a plan for the satisfactory correction of the problem shall be submitted to the City by the user.

Subd. 4 Show Cause Hearing

A. Notice of Hearing. If the violation is not corrected by timely compliance, the Council may order any user which causes or allows an unauthorized discharge to show before the Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Council regarding the violation, the reason why the

action is to be taken, the proposed enforcement action, and directing the user to show cause before the Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

B. Hearing Officials. The Council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee to:

1. Issue in the name of the Council notices of hearings requesting the attendance and testimony of witnesses and the protection of evidence relevant to any matter involved in such hearings;
2. Take the evidence; and,
3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Council for action thereon.

C. Transcripts. At any hearing held pursuant to this Section, testimony taken must be under oath and recorded steno graphically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges for it.

D. Issuance of Orders. After the Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives are necessary and appropriate may be issued.

E. Legal Action. If any person discharges sewage, industrial wastes or other wastes into the wastewater disposal system contrary to the provisions of this Section, Federal or State pre-treatment requirements or any order of the City; the City Attorney may, following the authorization of such action by the Council, commence an action for appropriate legal and/or equitable relief.

F. Annual Publication. A list of the users which were significantly violating applicable pre-treatment requirements or national categorical pre-treatment standards during the twelve (12) previous months shall be annually published by the City in a local newspaper. The notification shall be annually published by the City in a local newspaper. The notification shall also summarize any enforcement actions taken against the user(s/ during the same twelve (12) months. For the purposes of this provision, significant violations would be those violations which



remain uncorrected 45 days after notification of non-compliance; which are part of a pattern of non-compliance over a twelve month period; or which involve a failure to accurately report non-compliance.

#### G. Appeal to the Council

1. Any interested party shall have the right to request in writing an interpretation or ruling on any matter covered by this Section and shall be entitled to a written reply from the City.

2. Any decision of the enforcement of this Section may be appealed to the Council by filing a written petition with the City Clerk within thirty (30) days of the Superintendent's ruling. Said petition shall specify in detail the matter or matters involved and every ground or basis on which objections are made. Said petition shall show the names, addresses and telephone numbers of all objectors and their attorney at law or spokesperson. The filing of a petition in accordance with the requirements of the Section shall stay all proceedings unless the Council shall file within seventy-two (72) hours after the filing of a petition a certificate stating that a stay would cause peril to life or property or specifying other good reason.

3. The Council shall fix a reasonable time for hearing of the petition or appeal and give due notice of the time and place of said hearing to parties named in the petition as attorney or spokesperson. The hearing shall be open to the public. Petitioners shall be given full opportunity present evidence in support of their petition after which the Council may present evidence in support of its decision.

4. The Council shall decide the appeal within a reasonable time and notify the attorney or spokesperson. The minutes of the Council shall constitute the official record of the petition, hearing, and decision. Any party desiring a transcript of the proceedings shall furnish a qualified court reporter at its own expense.

#### 301.06 Unlawful Acts and Costs of Damage

Subd. 1 Unlawful Acts. It is unlawful for any user to violate an order of the Council or to fail to comply with any provision of this Section. Each day on which a violation shall occur or continue may be deemed a separate and distinct offence. In addition to the penalties provided in this Section, the City may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by an appropriate action against the person found to have violated this Section or the order, rules, regulations, and permits issued under this Section.

Subd. 2 Costs of Damage. Any user violating any of the provisions of this Section or who has a discharge which causes a deposit, obstruction, damage or other impairment to the wastewater disposal system shall become liable to the City for any expense, loss or damage caused by the violation or discharge. The Council may add to the user's charges and fees the costs assessed for any cleaning, repair or replacement work caused by the violation or discharge. Any refusal to pay the assessed costs shall constitute a violation of this Section.

Subd. 3 Falsifying Information. It is unlawful for any person to knowingly make any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Section or Wastewater Discharge Permit; or to falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this Section.

315.01 Definition. The term “refuse” means waste, garbage and rubbish of all kinds that accumulate in the ordinary operation of a household, or commercial or industrial establishment, including, but not limited to, grass trimmings, ashes, tin cans, and tree branches (those branches small enough to be placed in a 30-gallon standard type garbage can contained and placed therein)

315.02 Storage and Transporting Refuse

Subd. 1 Storage. It is unlawful for any person to store refuse except as provided in this section,

Subd. 2 Transportation. It is unlawful for a person to transport refuse over any street, for hire, except by special permit from the Council, or acting within the course and scope of a written contract with the City, or an employment with the City.

Subd. 3 Leak-proof Transportation. It is unlawful for any person to transport refuse on any street unless it is carried in a vehicle equipped with a leak-proof body or container and completely covered with a heavy canvas or top to prevent loss of contents.

315.03 Containers. All recyclable materials including newspapers, aluminium and tin cans, plastics, and glass will be placed in a container provided by the refuse collection service. Once each week, on days specified by the refuse collection service, the recyclable container will be placed at curb side for collection. All non-recyclable refuse will be placed in special bags marked by the refuse collection service and purchased in the City Office or other designated locations in the City, or in other containers approved by the Council. These special bags or other containers will be placed at curb side on the same day of the week as the recyclable container for collection by the refuse collection service.

315.04 Charges for Collections. A monthly (or quarterly) service fee will be charged to each resident of the City for the removal of refuse. In addition, a fee will be charged for each special bag used for non-recyclable refuse. Such charges shall be adopted from time to time by resolution of the Council.

315.05 Unlawful Collection of Recyclable Materials. It is a petty misdemeanour for any person or persons other than the licensed refuse collection service or its employees to collect any recyclable materials once they have been placed on the curb for collection by the refuse collection service.

315.06 Use of Unmarked Bags or Containers. It is a petty misdemeanour for any person or persons to place non-recyclable refuse in any bag or other container except for the special bags marked by the refuse collection service and purchased in the City Office or other designated locations in the City, or in another container approved by the Council.

315.07 Mandatory Collection. All residents of the City shall use the solid waste disposal system arranged by the City. Except as otherwise provided in this Chapter, no person shall collect or haul any waste unless he or she is licensed and authorized to do so.

315.08 Introduction of Unacceptable Waste Into City Waste Stream a Misdemeanour.

Subd. 1 Any person or business entity who shall introduce unacceptable waste into the City's waste stream shall be guilty of a misdemeanour. Unacceptable waste shall be defined as follows: "Unacceptable waste" shall mean waste which would likely pose a threat to the health or safety or to the environment, or which may cause damage to or adversely affect the operation of NRG facilities in a material way, including but not limited to: (a) Hazardous Waste of any kind or nature such as explosives, radio-active materials, cleaning fluids, crankcase oils, cutting oils, paints, acids, caustics, poisons, pesticides, insecticides or drugs; (b) Infectious Waste of any kind or nature such as pathological and biological waste, sanitary sewage and other highly diluted water-carried materials or substances; human or animal waste, sludge, including sewage sludge and septic and cesspool pump outs; human and animal remains; and (c) Other wastes including solvents and liquid wastes; street sweepings; mining waste; incinerator residue; transformers; batteries; aerosol cans; trees; demolition debris; ashes; foundry sand; concrete rubble; rock; gravel or construction debris.

Subd. 2 Exception. There shall be an exception from prosecution under Subd. 1 for acceptable household quantities or acceptable nonhousehold quantities of unacceptable waste introduced into the City waste stream. Acceptable household quantities shall mean waste which is otherwise unacceptable waste but which is contained in garbage, refuse, and municipal solid waste generated from any permanent or temporary residential dwelling unit; provided, however, that no amount of hazardous waste, infectious waste or any other waste that is regulated or restricted by law is acceptable waste. Acceptable non-household quantities shall mean waste which is otherwise unacceptable waste, but which is contained in garbage, refuse, and municipal solid waste generated from commercial, industrial, or community activities, where the quantity of such unacceptable waste contained in any load delivered to the transfer station constitutes an insignificant portion of such load; provided, however, that no amount of hazardous waste, infectious waste or any other waste that is regulated or restricted by law is acceptable waste.

315.09 Refuse Disposal for Township Residents Living Adjacent to the City Limits. Township residents living adjacent to the city limits and who are on the city utility list may request to be put on the compulsory residential list for the collection, transportation, and disposal of refuse. Township residents who desire this service are required to pay a monthly unit serve fee in accordance with the terms with this Chapter or as otherwise set by resolution of the City Council.

315.10 Violation a Petty Misdemeanour. Violation of a section, subdivision, paragraph or provision of this Section is considered a petty misdemeanour, unless otherwise stated, and subject to the conditions stated in Subsection 100.03.

320.01 An ordinance granting to Northern States Power Company, a Minnesota corporation, D/B/A Xcel Energy its successors and assigns, permission to construct, operate, repair and maintain in the City of Kilkenny, Minnesota, an electric distribution system and transmission lines, including necessary poles, lines, fixtures and appurtenances, for the furnishing of electric energy to the City and its Inhabitants and others and transmitting electric energy into and through the City and to use the public ways and public grounds of the City for such purposes.

320.02 Definitions. For the purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

Subd 1. City. The City of Kilkenny, County of LeSueur, State of Minnesota.

Subd 2. City Utility System. Facilities used for providing public utility service owned or operated by City or agency thereof, including sewer, storm sewer, water service, street lighting and traffic signals, but excluding facilities for providing heating, lighting or other forms of energy.

Subd. 3 Commission. The Minnesota Utilities Commission, or any successor agency or agencies, including an agency of the federal government which pre-empts all or part of the authority to regulate electric retail rates now vested in Minnesota Public Utilities Commission.

Subd. 4 Company. Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy its successors and assignees.

Subd. 5 Electric Facilities. Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned or operated by Company for the purpose of providing electric energy for public use.

Subd. 6 Non-Betterment Costs. Costs incurred by Company from relocation, removal or rearrangement of Electric Facilities that do not result in an improvement to the Electric Facilities.

Subd. 7 Notice. A writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to the General Counsel, Legal Services, 800 Nicollet Mall, Suite 3000, Minneapolis, MN 55402. Notice to City shall be mailed to the City Clerk, P.O. Box 122, Kilkenny, MN 56052-0122. Either party may change its respective address for the purpose of this Ordinance by written notice to the other parties.

Subd. 8 Public Ground. Land owned or otherwise controlled by the City for park, open space or similar public purpose, which is held for use in common by the public.

Subd. 9 Public Way. Any street, alley, walkway or other public right-of-way within the City.

320.03 Adoption of Franchise.

Subd. 1 Grant of Franchise. City hereby grants Company, for a period of 20 years from the date passed and approved by the City, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain electric distribution system and electric transmission lines, including poles, lines, fixtures, and any other necessary appurtenances in, on, over, under and across the Public Ways and Public Grounds of City. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to the further provisions of this franchise agreement.

#### 320.04 Restrictions

Subd 1. Company facilities included in such electric distribution system, transmission lines and appurtenances thereto, shall be located and constructed so as not to interfere with the safety and convenience of ordinary travel along and over said Public Ways. Company's construction, operation, repair, maintenance and location of such facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise agreement. Company may abandon underground electric facilities in place, provided at City's request Company removes abandoned metal or concrete encased conduit interfering with a City improvement project to the extent such conduit is uncovered as part of the City improvement project.

Subd. 2 Company shall not construct any new installations within or upon any Public Grounds without receiving the prior written consent of an authorized representative of City for each such installation.

Subd. 3 In constructing, removing, replacing, repairing, or maintaining said poles, lines, fixtures and appurtenances, Company shall, in all cases, place the Public Ways in, on, under or across which the same are located in as good condition as they were prior to said operation and maintain any restored paved surface in such condition for two years thereafter. City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, of a person or entity obtaining the City's permission to install, replace or maintain facilities in a Public Way.

#### 320.05 Tree Trimming

Subd. 1 Company is also granted the permission and authority to trim all trees and shrubs in the Public Ways and Public Grounds of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of any poles, lines, fixtures or appurtenances installed in pursuance of the

authority hereby granted, provided that Company shall save City harmless from any liability in the premises.

### 320.06 Service and Rates

Subd. 1 The service to be provided and the rates to be charged by Company for electric service in City are subject to the jurisdiction of the Public Utilities Commission of this State or its successor agency.

### 320.07 Relocating

Subd. 1 Whenever City at its cost shall grade, regrade or change the line of any Public Way, or construct or reconstruct any City Utility System therein and shall, in the proper exercise of its police power, and with due regard to seasonable working conditions, when necessary, and after approval of its final plans have been obtained, order Company to relocate permanently its lines, services and other property located in said Public Way, Company shall relocate its facilities at its own expense. City shall give Company reasonable notice of plans to grade, regrade or change the line of any Public Way or to construct or reconstruct any City Utility System therein. However, after Company has so relocated, if a subsequent relocation or relocations shall be ordered within five years from and after first relocation, City shall reimburse Company for such non-betterment relocation expense which Company may incur on a time and material basis; provided, if subsequent relocations are required because of the extension of City Utility System to previously unerved areas, Company may be required to relocate at its own expense at any time.

Subd. 2 Nothing contained in this franchise shall require Company to relocate, remove, replace or reconstruct at its own expense its facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

Subd. 3 Any relocation, removal, or rearrangement of any Company facilities made necessary because of the extension into or through City of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes Section 161.46 as supplemented or amended; and further; it is expressly understood that the right herein granted to Company is a valuable property right and City shall not order Company to remove or relocate its facilities without compensation when a Public Way is vacated, improved or re-aligned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation and the loss and expense resulting here from are first paid to Company.

Subd. 4 The provisions of this franchise shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by

easement or prescriptive right before the applicable Public Way or Public Ground was established, or Company's rights under state or county permit.

### 320.08 Indemnification

Subd. 1 Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the electric facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.

Subd. 2 In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defence or immunity otherwise available to the City; and Company, in defending any action on behalf of the City shall be entitled to assert in any action every defence or immunity that the City could assert in its own behalf.

### 320.09 Vacation of Public Ways.

Subd 1. The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. Except where required solely for a City improvement project, the vacation of any Public Way, after the installation of electric facilities, shall not operate to deprive Company of its rights to operate and maintain such electric facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way, under Minnesota Statutes, Section 160.29

### 320.10 Written Acceptance

Subd. 1 Company shall, if it accepts this Ordinance and the rights and obligations hereby granted, file a written acceptance of the rights hereby granted with the City Clerk after the final passage and any required publication of this Ordinance. The City by Council resolution may revoke this franchise agreement if Company does not file a written acceptance within 90 days after publication.



### 320.11 General Provisions

Subd. 1 Every section, provision, or part of this Ordinance is declared separate from every other section, provision or part; and if any section, provision or part shall be held invalid, it shall not affect any other section, provision or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

Subd. 2 If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

Subd. 3 This Ordinance constitutes a franchise agreement between the City and Company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

Subd. 4 Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all rights and obligations of the City provided in this Ordinance.

Subd. 5 Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Company's facilities while performing any activity.

### 320.12 Publication Expense

Subd. 1 The expense of any publication of this franchise Ordinance required by law shall be paid by Company.

### 320.13 Effective Date

Subd. 1 This Ordinance is effective as provided by statute or charter and upon acceptance by Company as provided in Section 9.

Section 325 – RULES AND REGULATIONS RELATING TO DISCHARGE INTO  
SANITARY SEWER SYSTEM

325.01 An Ordinance regulating discharge of storm water, ground water and surface water into the City's sanitary sewer system.

325.02 Prohibited Water

Subd. 1 It shall be unlawful for any owner, occupant or use of any premises to direct into, or allow, any storm water, surface water or ground water, to drain into the sanitary sewer system of the City. No rain spout, roof drain, or other form of surface drainage, and no foundation drainage or sump pump shall be connected or discharged into any sanitary sewer system.

325.03 SUMP PUMP AND RIGID PIPE REQUIRED.

Subd. 1 NEW SUBDIVISIONS: ALL CONSTRUCTION. A sump pump and rigid pipe discharged connection to the outside shall be required for all construction in new subdivisions when it is determined necessary by the City Engineer, City Clerk, City Council, Maintenance Superintendent Public Works Supervisor, or their designee, to protect against sanitary sewer infiltration. The City Engineer, City Clerk, City Council, Maintenance Superintendent Public Works Supervisor, or their designee, shall, in their sole discretion, conduct their analysis and make their determination of soil conditions on a subdivision basis. The sump pump and rigid pipe discharge requirement will apply to all units constructed within a specific subdivision.

Subd. 2 EXISTING SUBDIVISIONS: NEW CONSTRUCTION. Any new construction in a subdivision platted prior to the effective date of this ordinance shall be examined by the City Engineer, City Clerk, City Council, Maintenance Superintendent Public Works Supervisor, or their designee, when the footing inspection is made. At that time the, City Engineer, City Clerk, City Council, Maintenance Superintendent Public Works Supervisor, or their designee will determine, based upon excavated soils, whether the sump pump and rigid connection are required. Should the building owner choose the option of installing a sump pump and rigid connection where they are not required, they shall be installed in accordance with 3(a) and 3(b) below.

Subd. 3 EXISTING SUBDIVISIONS, EXISTING CONSTRUCTION. Any existing construction in a subdivision platted prior to the effective date of this ordinance in which a sump pump has been or will be installed, shall be required to install a rigid pipe connection discharge in accordance with 3(b) below. It shall be unlawful to maintain any connection with the sanitary sewer carrying roof water, ground water, surface water or any other natural precipitation after the effective date of this ordinance.

Subd. 4 EXCEPTIONS. In certain locations where surface storm water discharge would create a safety hazard during freezing weather, connection to the sanitary sewer may be maintained from October 15th to March 15th. In no case, shall any connection to the sanitary sewer be maintained from March 15th to October 15th. Exceptions will be granted

by permit on a case by case basis as determined by the City Council based upon a recommendation from the City Engineer, City Clerk, Maintenance Superintendent Public Works Supervisor, or their designee.

#### 325.04 SUMP PUMP RIGID PIPES METHOD OF INSTALLATION.

Subd. 1 The building shall have a drain tile placed around the inside or outside perimeter of the foundation connected to a sump pit. All baseboard seepage collection systems shall be discharged to the sump pit. The sump pit shall be located at least ten (10) feet away from the inside sanitary floor drain.

Subd. 2 A discharge pipe shall be installed to the outside wall of the building with rigid pipe (plastic, copper, galvanized or black pipe) one (1) inch inside diameter minimum. The discharge pipe must have a check valve within one (1) foot of the floor grade and a union or other approved coupling for easy disconnection for repair or replacement.

Subd. 3 Alternate methods of installation. The discharge pipe may be connected directly to the municipal underground storm sewer system provided the discharge is at a higher elevation than the normal flow level and that an approved backflow prevention device is installed.

#### 325.05 POWERS AND AUTHORITY OF INSPECTIONS.

Subd. 1 The City Engineer, Maintenance Superintendent, Public Works Supervisor, Public Works Worker, or their designee and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this ordinance.

#### 325.06 PENALTIES.

Subd. 1 Any person found to be violating any provision of this ordinance shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. No time shall extend beyond thirty (30) days for compliance. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Subd. 2 Any person who shall continue any violation beyond the time limited provided shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding Fifty and no/100 Dollars (\$50.00) for each violation. Each day in which any such violation occurred shall be deemed a separate offense.

Subd. 3 In the event that the owner fails to correct the situation within the given time period, the City may correct it and collect such costs together with reasonable attorney's fees and the collection fees by suing the owner in a court of competent jurisdiction, or in the alternative,

by certifying said costs of correction as any other special assessment upon the land from which said correction of said violation was made.

325.07 VALIDITY.

Subd. 1 All ordinances or parts of ordinances in conflict herewith are hereby repealed.

325.08 EFFECTIVE DATE.

Subd. 1 This ordinance shall be effective upon publication.