

## Chapter 114 - UTILITIES<sup>[1]</sup>

Footnotes:

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**Charter reference**— Public utilities, art. XIII.

**State Law reference**— Water and other utilities, V.T.C.A., Local Government Code 551.001 et seq.

### ARTICLE I. - IN GENERAL

Secs. 114-1—114-18. - Reserved.

### ARTICLE II. - ADMINISTRATION

Sec. 114-19. - Director of department of public works.

There is hereby created the office of director of the department of public works. The director shall be appointed by the City Manager and confirmed by the city council. The director of the department of public works shall be the administrative officer of the utilities system. The director of the department of public works shall attend to and control the water supply and at all times see to the sufficiency thereof. He shall notify the community, unless emergency requires otherwise, of the necessity of shutting off any pipeline for the purpose of making repairs, extensions, connection, etc., should he know beforehand the necessity to so shut off the water from any line or lines of the system.

(Code 1985, § 30-1; Code 2000, § 114-1)

Sec. 114-20. - Penalty and costs of collection.

- (a) Any person violating any of the provisions of this chapter is guilty of a Class C misdemeanor and, upon conviction, shall be fined not more than \$2,000.00. Each day a violation of this chapter continues shall be a separate offense.
- (b) In any suit under this chapter for enforcement or collection, the unsuccessful party shall be responsible for the city's reasonable attorney's fees, costs of court and other reasonable expenses.

(Code 1985, § 30-2; Code 2000, § 114-2)

Sec. 114-21. - Written agreement with customer.

The city may elect in the future to only provide city utilities to a customer who has executed a standard written agreement with the city to abide by all city utility ordinances as in effect or hereafter amended.

(Code 1985, § 30-3; Code 2000, § 114-3)

Sec. 114-22. - Water and sewer deposits.

The following deposit fees shall be effective:

- (1) *Deposits.* See appendix B for fees, rates and charges.

- (2) *Waiver of deposit.* Customers may apply to the City Manager or his/her designee for a waiver of deposits which shall be based solely upon prior positive utility payment history with the city.
- (3) *Outside of the city limits.* The deposit for customers outside of the city limits shall be two times the deposit for customers within the city.
- (4) Deposits are refundable at the time service is disconnected; and will be applied first to any outstanding balance.
- (5) The City shall refund security deposits for residential customers that have paid utility bills for 12 consecutive billings without having been delinquent.
- (4) *Termination of service fees.*
  - a. *Reconnection fees.* Water service shall be terminated for nonpayment by closing the curbstop. If service to an account that has been terminated is restored without approval from the water department, the city may, at its sole discretion, pull or lock the meter for the discontinued service and charge a tampering fee. If the meter is damaged due to the service being restored without approval from the water department the customer shall be responsible for all repair costs. Water service shall not be restored after termination until all amounts due on the account have been paid, together with the required reconnection fee. The reconnection fee shall be as set out in appendix B, fee schedule.
  - b. *Required deposit.* The deposit amount required before restoring water service to any residential customer whose account with the city has been terminated in accordance with section 114-90 shall be as set out in appendix B, provided that the total of all deposits required under this section shall not exceed the amount set out in appendix B. Any commercial customer whose account with the city has been terminated in accordance with section 114-90 will be required to pay deposit as set out in appendix B, per occurrence of account termination, provided that the total of all deposits on the account shall not exceed an amount equal to an average of the previous three months of billing on the account.
- (5) *Lien.*
  - a. Pursuant to V.T.C.A., Local Government Code ch. 552, there is hereby imposed a lien on each property that is served by the city's water and/or wastewater system to secure payment of delinquent municipal accounts. This lien does not attach to property that is a homestead as protected by the Texas Constitution. This lien shall not apply to bills for service connected in a tenant's name after notice by the property owner to the municipality that the property is rental property. This lien shall not apply to bills for service connected in a tenant's name prior to the effective date of the ordinance imposing the lien.
  - b. The City Manager or his/her designee shall perfect the city's lien by recording a notice of lien in the real property records of Matagorda County, Texas, that includes:
    - 1. The name of the owner of the property;
    - 2. The name of the person who received the service, if different than the owner;
    - 3. The legal description of the property;
    - 4. The amount owed to the city, including penalty, interest, and collection costs; and
    - 5. The type of service of which the payment is delinquent.
  - c. The city's lien shall be inferior to a bona fide mortgage lien that is recorded prior to the date the city's lien is recorded in the real property records of Matagorda County, Texas, but shall be superior to all other liens including previously recorded judgment liens and all liens recorded after the city's lien.

(Code 1985, § 30-4; Code 2000, § 114-4; Ord. No. 1337, § V, 11-9-2006; [Ord. No. 1625, 9-27-2018](#).)

Sec. 114-23. - Statement of accounts furnished manager.

The City Manager or his/her designee shall be furnished a statement monthly showing the status and conditions of all delinquent accounts and the deposits held thereon.

(Code 1985, § 30-5; Code 2000, § 114-5)

Sec. 114-24. - Tapping sewer and waterlines.

Only authorized employees of the city may make the actual sewer and water taps. It is a violation of this chapter for anyone to make an unauthorized tap and punishable as a Class C misdemeanor under section 114-20. The director of public works or his/her designate may authorize, but is not required by this section to authorize, a qualified contractor to make water and sewer taps to residential and commercial facilities, so long as such taps are inspected by the city and meet city specifications.

(Code 1985, § 30-6; Code 2000, § 114-6)

Sec. 114-25. - Sewer and water tap fees and surcharges.

- (a) Sewer and water tap fees or quantity cost control capital recovery fees must be paid in full or a valid written contract executed with the city prior to the city connecting the customer into either the city's water or sewer system. If a customer or user fails to pay any water or sewer tap fee, quantity cost control capital recovery fee or monthly payment as due, the city is authorized to immediately disconnect the customer or user from both the city's water and sewer facilities though the customer or user is only in arrears in the customer's payment for one facility and not both water and sewer facilities.
- (b) It is a violation of this article and a Class C misdemeanor to fail to pay tap fees prior to tapping into the water and sewer lines of the city.

(Code 1985, § 30-7; Code 2000, § 114-7; Ord. No. 1337, § VIII, 11-9-2006)

Sec. 114-26. - Late payment fees.

A late payment fee is hereby fixed and required to be paid by all utility customers who have charges not paid by the fifth day after the statement due date. The late fee shall be as set out in appendix B, and shall be included in on the customer's utility billing statements. To avoid late charges, payment must be received in the utility billing and collections office located at city hall, (1901 5th Street) by 5:00 p.m. on the fifth day after the statement due date. Payments left in the night drop box after 5:00 p.m. on the fifth day after the statement due date shall be considered a late payment. Payments made online shall be posted when funds are actually received and are subject to late penalty if not timely received.

**Note**— Late payment fees for solid waste services shall remain under the purview of Ordinance No. 1374, passed and approved on September 14, 2009.

(Ord. No. 1442, § 3, 10-11-2012; [Ord. No. 1625, 9-27-2018](#) )

Sec. 114-27. - Rate Changes.

City Council approves by ordinance all rate or fee changes to the water, sewer, and garbage fees. Secs. 114-28—114-53. - Reserved.

## ARTICLE III. - WATER<sup>[2]</sup>

### Footnotes:

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**State Law reference**— Water control, V.T.C.A., Local Government Code 551.001 et seq.

### DIVISION 1. - GENERALLY

#### Sec. 114-54. - Service to premises outside city.

No premises located outside the city limits shall be furnished water by the city, unless the owner of such premises agrees to petition for annexation if the city requests him to do so. The owner of such premises shall be financially responsible for extending utilities to said premises.

(Code 1985, § 30-21; Code 2000, § 114-41)

#### Sec. 114-55. - Tapping charges.

- (a) The tapping charges for connections with the city water mains and laterals shall be as set out in appendix B.
- (b) If field verification is required to located City utilities, a fee shall be charged as set forth in Appendix B Fee Schedule.

(Code 1985, § 30-22; Code 2000, § 114-42; Ord. No. 1377, § II, 11-9-2006; [Ord. No. 1625, 9-27-2018](#).)

#### Sec. 114-56. - Service application.

- (a) Any person desiring water service from the city, shall make application therefor to the director of public works or his/her designate on forms provided for such purpose. The following information shall be required:
  - (1) The uses for which water is desired.
  - (2) The name of the person, or the owner of the premises, to be served.
  - (3) The location of the premises to be served, including the number of the lot and block, name of the street and the house number.
- (b) Upon the approval of the application for water service, the director of public works or his/her designate shall issue a permit therefor.
- (c) The City reserves the right to inspect plumbing on premises to which the connection is to be made and determine if it complies with all city ordinances, American Water Works Association (AWWA) standards, and Texas Commission on Environmental Quality (TCEQ) rules and regulations prior to opening new service.
- (d) Any person knowingly furnishing the city with false or fraudulent information, shall be guilty of an offense and, upon conviction thereof, shall be fined as provided in section 114-20 of this Code. Each day that such violation continues shall constitute a separate offense and be punishable as such. This penalty shall be in addition to any other remedy, penalty or sanction provided for herein.(Code 1985, § 30-23; Code 2000, § 114-43)

Sec. 114-57. - Connection fees.

See appendix B for connection fees.

(Code 1985, § 30-24; Code 2000, § 114-44; Ord. No. 1337, § VI, 11-9-2006; Ord. No. 1442, § 1, 10-11-2012; [Ord. No. 1625, 9-27-2018](#) )

Sec. 114-58. - Notice of discontinuance by consumer.

Any person wishing to discontinue the use of water supplied from the city must give notice thereof to the City Manager or his/her designee; otherwise, the charge will be entered until such notice has been given.

(Code 1985, § 30-25; Code 2000, § 114-45)

Sec. 114-59. - Taps.

Upon the payment of the required tapping fee, the director of public works or his/her designate shall make or cause to have made, the necessary connections for water service. Every premises connected to the waterworks system of the city, or otherwise being served thereby, shall have a separate service connection, curbstop, and box..

(Code 1985, § 30-26; Code 2000, § 114-46)

Sec. 114-60. - Use of fire hydrants.

It shall be unlawful for any person to open or close any fire hydrant or end of the line blow off valve connected with the city's waterworks system, or lift or remove the covers of any gate valve or shutoffs thereof, without the permission of the director of public works or his/her designate, except in case of fire, and then only under the direction of officers of the fire department.

(Code 1985, § 30-27; Code 2000, § 114-47)

Sec. 114-61. - Meters.

All meters connected to the City's waterworks system shall be set by the employees of the city. Privately owned meters shall be installed by a licensed contractor or plumber and shall be inspected by the City and meet City specifications. If the meter becomes defective and fails to register, the consumer will be charged at the average daily consumption, as shown by the meter when in order. All water that passes through the meter shall be charged for, whether used or not. All services shall be properly metered by a standard water meter, except for fire lines, which shall be metered by a city-approved leak detector meter. All meters shall be the property of the city and shall be kept in repair by the city.

(Code 1985, § 30-38; Code 2000, § 114-48)

Sec. 114-62. - Covering meters, boxes.

It shall be unlawful for any person to cover over or conceal from view any water valve box, service or meter box. The customer shall keep the space occupied by the meter and the meter box or vault free from rubbish, animals or obstructions of any kind. In the event the water meter box or vault is buried or obstructed, the department may give written notice to the customer requiring such person to uncover or

remove obstructions from the meter box or vault within 10 (ten) days of the notice. If the customer does not remove the obstruction, the city may remove the obstruction and charge the customer or property owner the city's cost for such work. If the customer or property owner fails to make payment, the city may file a lien against the property as provided in section 114-22(5) of this Code.

(Code 1985, § 30-29; Code 2000, § 114-49)

Sec. 114-63. - Unauthorized resumption of service.

It shall be unlawful for any person to turn on the water supply to any building or to any supply pipe where the supply has been turned off for the nonpayment of the monthly water charge, an inactive account, or for the violation of any applicable ordinance or regulation. If it is determined by inspection of the utility department that terminated water service has been restored without such consent, the customer in whose name the account appears or the owner of the property, if the account is inactive, shall be assumed to have restored the water service and will be subject to penalties identified in the ordinance and fees identified in Appendix B Fee Schedule.

(Code 1985, § 30-30; Code 2000, § 114-50)

Sec. 114-64. - Drought contingency plan and water conservation plan adopted.

That the city drought contingency plan attached hereto the ordinance from which this section is derived as exhibit "A" and water conservation plan attached hereto the ordinance from which this section is derived as exhibit "B" and made part hereof for all purposes be, and the same is hereby, adopted as the official policy of the city.

(Code 2000, § 114-51; Ord. No. 1251, § 1, 8-26-1999; [Ord. No. 1524, § 1, 11-20-2014](#))

**Editor's note**— [Ord. No. 1524, § 1, adopted November 20, 2014](#), amended § 114-64 to read as set out herein. Previously § 114-64 was titled drought contingency plan adopted.

Secs. 114-65—114-86. - Reserved.

Sec. 114-65 – Right of entry; time; purposes

Every person receiving water from the city shall, at all times, permit the city water employee, or other officer or agent of the city, to enter the premises or building to examine the pipes and fixtures, the manner in which the water is used and for the purpose of repairing, reading or testing the meters.

Sec. 114-66. – City's reserved rights; liability exemption

(a) *Shutting off all water; purposes.* The city reserves the right at any time to turn off the water in its mains for the purpose of cleaning, repairing or making any connections or extensions, or for the purpose of repairing machinery, reservoir or any part of the waterworks system.

(b) *Exemption from liability.* The city shall not be liable for any damages on account of leakage or breakage of pipes on any premises.

(c) *Proof of ownership.* Whenever ownership is a prerequisite to any right in this article, the city reserves the right to consider any reasonable proof thereof.

(d) *Right to make other rules.* The city reserves the right to make such other rules and regulations as may be necessary for the preservation, protection and economical administration of its water system.

Sec. 114-67. – Control of water service connection

The city shall own and maintain that part of the water service connection extending from the main to the meter, including the service line, meter, meter box, vault enclosure, and attached electronic devices. No person may remove, repair or tamper with any of the elements of the water service connection except with the consent of the utility official. Violation of this section shall be punishable by a fine not to exceed \$500.00. Provided, however, this section does not prohibit the resident or custodian of the property from shutting off the water at the meter if necessary, to prevent water loss due to frozen water pipes and other emergencies. All connections to the City's water system shall have a private shut off valve.

Sec. 114-68. - City's installation and maintenance.

- (a) The city will install and maintain its lines and equipment on its side of the meter according to the city's design standards, but the city is not required to install or maintain any lines or equipment on the customer's side of the meter. If loss or damage to the property of the city is caused by the negligence or misuse of the customer, the customer is liable for the costs of repairs.
- (b) The customer must protect the city's potable water supply by installing, operationally testing and maintaining backflow assemblies and methods as required, approved and accepted by the city.

Sec. 114-69. – Customer's installation

- (a) The customer is responsible for installing, providing, repairing, and maintaining all water service facilities located on the customer's side of the meter.
- (b) To receive city service, the customer must convey to the city any property rights necessary to extend the city's lines or extensions thereof or other equipment necessary or incidental to the supplying of service to the customer, without reimbursement from the city.
- (c) The customer must maintain the premises so that city's agents have safe and unobstructed access to all portions hereof for the purpose of maintaining, removing, or replacing the city's property, reading meters, inspecting plumbing systems, and backflow methods and assemblies and other apparatus on new and remodeled installation, and all other purposes incident to the supplying of service to the customer.
- (d) The customer's service connections are to be located at a point readily accessible to the city's service facilities. The service connection point is to be determined by the city, using the most direct route to city facilities, and the point may be relocated if deemed necessary by the city.
- (e) All installations must conform with city plumbing, building, mechanical, energy conservation, fire, and electrical codes, and with any other city ordinance governing the customer's installation.
- (f) Where and as required by the city's ordinance, backflow prevention assemblies, devices and methods must be installed, maintained and operationally tested by a licensed plumber or backflow assembly tester at the expense of the customer, provided water service is directly or indirectly connected, or interconnected to the city's potable water distribution system.
- (g) The customer will install and maintain operable a water shut off valve on the customer's side of the meter.
- (h) If the customer's plumbing fixtures are lower than the castings onto the city's mains, the customer must install the necessary backflow protection equipment.

Sec. 114-70. – Private water well

It shall be unlawful for any person to drill or repair any water well within the city limits or the extraterritorial jurisdiction of the city when city water is available if such property is situated within 300

feet of a city water main. In the event city water is not available, the Director of Public Works may issue a serviceability letter permitting the water well.

**Sec. 114-71. – Wellhead protection**

(a) The following requirements have been adopted to prevent pollution of water pumped from the wellheads of city-owned wells, as set out below:

- (1) It shall be unlawful for any person to construct a tile or concrete sanitary sewer, sewer appurtenance, septic tank, storm sewer, or cemetery within 50 feet of a city water well. With respect to sanitary or storm sewers, it is an affirmative defense to prosecution under this item (1) that the sanitary or storm sewer is located ten feet or more from the city water well, is constructed of ductile iron or PVC pipe that meets American Water Works Association standards, has a minimum working pressure of 150 psi or greater, and is equipped with pressure type joints.
- (2) It shall be unlawful for any person to allow livestock in pastures within 50 feet of a city water well.
- (3) It shall be unlawful for any person to construct an on-site sewage facility tank perforated drain field, tank absorption bed, or tank evapotranspiration bed, or to construct a petroleum or chemical storage tank or liquid transmission pipeline within 150 feet of a city water well.
- (4) It shall be unlawful for any person to irrigate an area within 150 feet of a city water well with spray from an on-site sewage facility.
- (5) It shall be unlawful for any person to construct a water well within 150 feet of a city water well unless the well complies with all applicable state regulations.
- (6) It shall be unlawful for any person to construct a sewage wet well or sewage pumping station within 300 feet of a city water well.
- (7) It shall be unlawful for any person to construct a drainage ditch for industrial waste or sewage treatment waste within 300 feet of a city water well.
- (8) It shall be unlawful for any person to construct a sewage treatment plant, animal feed lot, or solid waste disposal site within 500 feet of a city water well.
- (9) It shall be unlawful for any person to apply sludge or effluent from a septic tank or sewage treatment plant on land within 500 feet of a city water well.
- (10) It shall be unlawful for any person to drill an oil or gas well, including an injection well for recovery of oil or gas within 500 feet of a city water well.

(b) It is a defense to prosecution under subsection (a) of this section that the actor has obtained a variance in writing from the utility official. The utility official shall grant a variance upon a showing by the applicant that: (1) the facility or activity will not contaminate the groundwater, and (2) the facility or activity is not prohibited under any other provision of this Code.

(c) The department shall investigate existing facilities whether located within or without the distance requirements of subsection (a) and determine if those facilities are a pollution hazard to city well water. The department shall recommend acquisition of such facilities in the event the department determines that the facilities are a pollution hazard to city well water and the owner refuses to take action necessary to abate the pollution hazard.

(d) Any person who violates any provision of this section shall be guilty of an offense and upon conviction thereof shall be subject to a fine of not less than \$500.00 nor more than \$2,000.00 for each violation. Each day in which a violation occurs shall constitute a separate offense. In addition to criminal prosecution, the legal department may seek appropriate judicial remedies to protect city ground water from contamination.

**Sec. 114-72. – Misuse of water; damage to waterworks system**

(a) No person shall apply water furnished by the city to any use different from that named in the application or contract for water service, nor shall any customer supply water to other persons or to other families or permit them to take water, nor shall any person, after the water is introduced to any building or upon any property make



any tap or connection upon such property for the purpose of altering, repairing, or making extensions or attachments to furnish water to other families on such property. Misuse of water also includes theft of water service, making an unauthorized connection, construction of a by-pass of the water meter or use of any other device or arrangement that would prevent the water meter from correctly measuring the customer's water supply from the city. Any waste or misuse of water shall be an offense.

- (b) It shall be an offense for any person to use water from a connection to a city water main except through a meter properly measuring the flow.
- (c) In any case of misuse of water or customer damage to any property of the city waterworks, the city will bill the customer for previously unbilled utility costs for all water not recorded on the meter, and any wastewater service based thereon. The city may also bill the customer for any other city costs, including personnel costs, incurred in investigating and correcting the unlawful use or damage to city property.
- (d) The city may terminate a customer's utility service for any misuse or damage to city waterworks system.
- (e) It is prima facie evidence that a person has misused water or tampered with the meter if the person is the customer or owner of the property and:
  - (1) Water is prevented from passing through the city's meter;
  - (2) The City's meter is prevented from correctly registering the quantity of water supplied to the property unless the faulty measurement is due to age, normal wear and tear or natural causes;
  - (3) Water is diverted or bypassed around the meter;
  - (4) The city's meter or service connection to the property is removed; or
  - (5) Wastewater is prevented or diverted from flowing from the property into the city's wastewater system.

Sec. 114-73. – Customer Service Inspection prior to connection, reconnection or transfer of service.

Prior to the original connection, reconnection or transfer of water and/or sewer service to a tenant or property owner, the city at its option shall perform a Customer Service Inspection of the customer's private system and verify the integrity thereof. Any defects discovered in the private line shall be repaired by the property owner or his/her agent prior to obtaining the original connection, reconnection or transfer of city water and/or sewer service.

(Code 1985, § 30-143; Code 2000, § 114-203)

## DIVISION 2. - RATES AND CHARGES

Sec. 114-87. - Definitions.

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

*Billing period* means any period of 30 consecutive days during which period a consumer of the city waterworks system is billed.

*Account Types:*

*Residential-* single family or single unit dwelling

*Multi-Family-* means any residential housing consisting of two or more separate living units (one meter servicing multiple living units)

*Non-Residential (Commercial)- all other uses, excluding single-family residential, multi-family residential and industrial*

*Industrial Customers- a user who has a reasonable potential to adversely affect the discharge process to the wastewater treatment plant*

(Code 1985, § 30-46; Code 2000, § 114-76)

Sec. 114-88. - Schedule.

See appendix B for monthly rate schedules.

Sec. 114-88.1 Methodology for Utility Rates.

- (a) Monthly Service Charges are fees for being connected to the water utility and vary based on the size of the meter. Consumption charges are billed separately.
  - 1. Single -family residential customers will be billed monthly rate by meters size which includes 2,000 gallons of water.
  - 2. Multi-Family customers will be billed a monthly rate based on meter size. Rates shall be the same as non-residential users (commercial).
  - 3. Non-Residential (Commercial) customers will be billed a monthly rate by meter size.
  - 4. Irrigation meters shall be charged a per month charge based on meter size and type of rates (residential or commercial) shall be based on customer account type. No sewer charge shall be charged.
  - 5. Fire Sprinklers shall be charged a per month charge based on meter size and type of rates (residential or commercial) shall be based on customer account type, No sewer shall be charged.
- (b) Consumption Charges are based on monthly water consumption and may include rates that increase with higher consumption (known as conservation rates) or higher peak demand requirements that increase system costs. Consumption charges vary by account type.

(Code 1985, § 30-47; Code 2000, § 114-77; Ord. No. 1337, § I, 11-9-2006; [Ord. No. 1625, 9-27-2018](#).)

Sec. 114-89. - Due date and payment.

All rates and charges for water service furnished or rendered by the city waterworks system to any consumer thereof shall be due and payable within ten days after the date the bill therefor was mailed. Such rates and charges shall be paid at the office of the water department.

(Code 1985, § 30-48; Code 2000, § 114-78)

Sec. 114-90. - Termination of service for nonpayment of charge.

If all rates and charges for water service furnished any consumer by the city are not paid within ten days after the billing date thereof, the city may cut off and discontinue water service to such consumer. In

such event, such service shall not be reconnected and no further water shall be furnished such consumer until all past-due rates and charges have been paid in full.

(Code 1985, § 30-49; Code 2000, § 114-79)

Secs. 114-91—114-108. - Leased Properties

- 1) Accounts for Multi -Family Units shall be the responsibility of the property owner and the account shall be in the name of the property owner.
- 2) The City reserves the right to inspect property prior to activation of service.

ARTICLE IV. - SEWERS AND SEWAGE DISPOSAL<sup>[3]</sup>

Footnotes:

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**State Law reference—** General authority to enact rules regulating sewage disposal, V.T.C.A., Water Code § 26.176; municipal utilities, V.T.C.A., Local Government Code § 552.001 et seq.; sanitation and environmental quality, V.T.C.A., Health and Safety Code § 341.001 et seq.

DIVISION 1. - GENERALLY

Sec. 114-109. - Fees for sewer taps.

The tapping fees for connection to the city sewer system shall be as set out in appendix B, fee schedule.

(Code 1985, § 30-65; Code 2000, § 114-101; Ord. No. 1337, § IV, 11-9-2006; [Ord. No. 1625, 9-27-2018](#) )

Sec. 114-110. - Certain connections prohibited.

It shall be unlawful for any person to connect any cesspool or privy vault with any sanitary sewer or drain in the city.

(Code 1985, § 30-71; Code 2000, § 114-102)

Secs. 114-111—114-133. - Reserved.

Sec. 114-111. – Required connections to public sewers.

All owners of real property inside the city limits shall ascertain the availability of city sewer service for the owner's property. If such property is situated within 300 feet of a city sewer main, the owner shall within 60 days of notice from the department apply for a sewer tap permit and pay any fee due the city for the permit including Quantity cost capitol recovery fee if applicable. The connection must be completed six months after the date of the application for the permit, unless the utility official, because of extraordinary circumstances, grants additional time. After expiration of the six-month

period, the department shall charge the owner's account for sewer service unless the utility official grants additional time.

During the same six-month time period the owner must also remove all septic tanks from the property, or in the alternative, may leave any tanks in place and fill them with sand or dirt after the waste has been removed. The owner must ensure all remediation is in accordance with requirements established by the department.

In addition to other remedies available to the department, in the event the owner fails to comply with this section, the department may terminate water service to the property. Provided, however, in the event the department terminates water service, it must provide notice to the owner.

Any person owning such property, who after notice from the department fails to comply with these requirements within the time period specified herein, shall be guilty of an offense punishable by a fine not to exceed \$2,000.00. Each day the violation continues shall constitute a separate offense.

Sec. 114-112. – Metering water not furnished by city to determine charge.

Any customer discharging waste from any property or premises into the sanitary sewers of the city who has a private source of water supply or who receives the customer's water supply from a source other than the city shall install a meter of the type and standard approved by the department for the purpose of measuring the amount of wastewater discharged. Such meter shall be installed in a location approved by the department and accessible to the water meter readers of the city at all times during city business hours. The wastewater consumption indicated by such meter shall be the basis of determining the sewer charge provided for in this article, to be billed at the applicable rate as stated in section 114-134 of this Code.

## DIVISION 2. - RATES AND CHARGES

Sec. 114-134. - Schedule.

See appendix B for monthly rate schedules.

(Code 1985, § 30-86; Code 2000, § 114-126; Ord. No. 1337, § III, 11-9-2006; [Ord. No. 1625, 9-27-2018](#).)

Sec. 114-135. - Quantity cost capitol recovery fee (surcharge).

- (a) *Authorization.* The director of public works, or his/her designate, is authorized to make additional sewer charges which will be designated as quantity cost capitol recovery fees to any customer who places into the sewer system any effluent which either:
  - (1) Is potentially harmful to the system or likely to create stoppage, require cleaning or reduce efficiency of the system or
  - (2) Requires, or is likely to require, additional treatment, observation or testing.
- (b) *Quantity of effluent.* See appendix B for quantity cost capitol recovery fees.
- (c) *For other applications or industrial wastes.* Quantities or qualities shall be reasonably substantiated by the director of public works or agreed upon in writing by the customer and the director of public works.
- (d) *Quality of effluent.* If the quality of the effluent is other than domestic by definition, it shall be regulated by division 5 of this article.

(e) *Low-to-moderate income surcharge exemption.*

- (1) *Homeowner financial eligibility.* Annual income, regardless of source, is based upon the United States Department of Housing and Urban Development Housing Assistance Program income guidelines.
- (2) *Eligible deductions.* Only those deductions allowed by the United States Department of Housing and Urban Development Housing Assistance Program shall apply.
- (3) *Legal eligibility.*
  - a. Homeowners of single-family structures shall only be eligible.
  - b. Homeowners must possess title to the property and improvements (fee simple or mortgage) for which the exemption is being sought.
  - c. The structure must be the homestead residence of the homeowner.
  - d. The structure must remain in the homeowner's possession for a year following the date of issuance of exemption.
- (4) *Denial and appeal.*
  - a. Denial or exemption shall be the decision of the city and will be based on the guidelines listed under financial and legal provisions.
  - b. An appeal by the exemption applicant shall first be made to the director of public works and finally to the city council.

(Code 1985, § 30-87; Code 2000, § 114-127; Ord. No. 1337, § VII, 11-9-2006; [Ord. No. 1625, 9-27-2018](#).)

Secs. 114-136—114-153. - Reserved.

### DIVISION 3. - USES

#### Sec. 114-154. - Definitions.

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

*Approving authority* means the City Manager of the city, or his/her duly authorized representative.

*Biochemical oxygen demand (BOD)* means the quantity of oxygen by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20 degrees centigrade.

*Building sewer* means the extension from the building drain to the public sewer or other place of disposal (also called "house lateral" and "house connection").

*Chemical oxygen demand (COD)* means the measure of the oxygen-consuming capacity of inorganic and organic matter present in the water or wastewater, expressed in mg/l, as the amount of oxygen consumed from a chemical oxidant in a specific test but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

*City* means the City of Bay City, Texas, or any authorized person acting in its behalf.

*Control manhole* means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

*Control point* means a point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

*Director* means the director of public works (including water and wastewater) of the city, or his/her duly authorized deputy, agent or representative.

*Garbage* means animal and vegetable wastes and residue from the preparation, cooking and dispensing of food; and from handling, processing, storage and sale of food products and produce.

*Industrial waste* means waste resulting from any process of industry, manufacturing, trade or business from the development of any natural resource; or any mixture of the waste with water or normal wastewater, or distinct from normal wastewater.

*Industrial waste charge* means the charge made on those persons who discharge industrial wastes into the city's sewerage system.

*Milligrams per liter (mg/l)* means the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

*Natural outlet* means any outlet into a watercourse, ditch, lake or other body of surface water or groundwater.

*Normal domestic wastewater* means wastewater, excluding industrial wastewater, discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 250 mg/l and the BOD is not more than 250 mg/l.

*Overload* means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

*Person* includes the corporation, organization, government or governmental subdivision or agency, business trust, estate trust, partnership association and any other legal entity.

*pH* means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration.

*Public sewer* means pipe or conduit, carrying wastewater or unpolluted drainage, in which owners of abutting properties shall have the use, subject to control by the city.

*Sanitary sewer* means a public sewer that conveys domestic wastewater or industrial wastes, or a combination of both, and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

*Slug* means any discharge of water, wastewater or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds, for any period of duration longer than 15 minutes, more than five times the average 24-hour concentration or flows during normal operation.

*Standard methods* means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater, as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the **Water Pollution Control Federation**.

*Storm sewer* means a public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

*Stormwater* means rainfall or any other forms of precipitation.

*Suspended solids* means solids, measured in mg/l, that either float on the surface of or are in suspension in water, wastewater or other liquids, and which are largely removable by a laboratory filtration device.

*To discharge* includes to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose of, or to allow, permit or suffer any of these acts or omissions.

*Trap* means a device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

*Unpolluted wastewater* means water containing:

- (1) No free or emulsified grease or oil;
- (2) No acids or alkalis;
- (3) No phenols or other substances producing taste or odor in the receiving water;
- (4) No toxic or poisonous substances in suspension, colloidal state or solution;
- (5) No noxious or otherwise obnoxious or odorous gases;
- (6) Not more than an insignificant amount in mg/l each of suspended solids and BOD, as determined by the Texas Commission on Environmental Quality (TCEQ);
- (7) Color not exceeding 50 units, as measured by the platinum-cobalt method of determination, as specified in the "standard methods."

*Waste* means rejected, unutilized or superfluous substances in liquid, gaseous or solid form, resulting from domestic, agricultural or industrial activities.

*Wastewater* means a combination of the water-carried waste from residences, business buildings, institutions and industrial establishments, together with any groundwater, surface water and stormwater that may be present.

*Wastewater facilities* includes all facilities for collection, pumping, treating and disposing of wastewater and industrial wastes.

*Wastewater service charge* means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

*Wastewater treatment plant* means structures used for the receiving, processing and treating of wastewater.

*Watercourse* means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

(Code 1985, § 30-112; Code 2000, § 114-151)

Sec. 114-155. - Prohibited discharges.

- (a) No person may discharge to the public sewers any waste which, by itself or by interaction with other wastes, may:
  - (1) Injure or interfere with wastewater treatment processes or facilities;
  - (2) Constitute a hazard to humans or animals; or
  - (3) Create a hazard in receiving waters of the wastewater treatment plant effluent.
- (b) All discharges shall conform to the requirements of this division.

(Code 1985, § 30-113; Code 2000, § 114-152)

Sec. 114-156. - Chemical discharges.

- (a) No discharge to public sewers may contain:
  - (1) Cyanide greater than one mg/l;
  - (2) Fluoride other than that contained in the public water supply;
  - (3) Chlorides in concentrations greater than 250 mg/l;
  - (4) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas; or

- (5) Substances causing an excessive chemical oxygen demand (COD).
- (b) No waste or wastewater discharged to public waters may contain:
  - (1) Strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not;
  - (2) Fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit or (zero and 65 degrees Celsius);
  - (3) Objectionable or toxic substances exerting an excessive chlorine requirement to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials; or
  - (4) Obnoxious, toxic or poisonous solids, liquids or gases in quantities sufficient to violate the provisions of section 114-155(a).
- (c) No waste, wastewater or other substance may be discharged into the public sewers which has a pH lower than 5.5 or higher than 9.5, or any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel at the wastewater facilities.
- (d) All waste, wastewater or other substance containing phenols, hydrogen sulfide or other taste- and odor-producing substances shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal or other agencies with jurisdiction over discharges to receiving waters.

(Code 1985, § 30-114; Code 2000, § 114-153)

Sec. 114-157. - Heavy metals and toxic materials.

- (a) No discharges may contain concentrations of heavy metals greater than the amount specified in subsection (b) of this section.
- (b) The allowable concentrations of heavy metals, stated in terms of milligrams per liter (mg/l), determined on the basis of individual sampling in accordance with the standard methods" for discharge to inland waters, are as follows:

Metal	Average	Not to Exceed Daily Composite	Grab Sample
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0



Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

- (c) No other heavy metals or toxic materials may be discharged into public sewers without a permit from the approving authority, specifying the conditions of pretreatment, concentrations, volumes and other applicable provisions.
- (d) Prohibited hazardous materials include, but are not limited to:
- (1) Antimony;
  - (2) Beryllium;
  - (3) Bismuth;
  - (4) Cobalt;
  - (5) Molybdenum;
  - (6) Uranyl ion;
  - (7) Rhenium;
  - (8) Strontium;
  - (9) Tellurium;
  - (10) Herbicides;
  - (11) Fungicides; and
  - (12) Pesticides.

(Code 1985, § 30-115; Code 2000, § 114-154)

Sec. 114-158. - Particulate size.

- (a) No person may discharge garbage into public sewers, unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half inch in any dimensions are prohibited.

- (b) The approving authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater.

(Code 1985, § 30-116; Code 2000, § 114-155)

Sec. 114-159. - Stormwater and other unpolluted drainage.

- (a) No person may discharge to the public sanitary sewers:
  - (1) Unpolluted stormwater, surface water, groundwater, roof runoff or subsurface drainage;
  - (2) Unpolluted cooling water;
  - (3) Unpolluted industrial process waters;
  - (4) Other unpolluted drainage; or
  - (5) Make any new connections from inflow sources.
- (b) In compliance with the Texas Water Quality Act and other statutes, the approving authority may designate storm sewers and other watercourses into which unpolluted drainage described in subsection (a) of this section may be discharged.

(Code 1985, § 30-117; Code 2000, § 114-156)

Sec. 114-160. - Temperature.

No person may discharge liquid or vapor having a temperature higher than 150 degrees Fahrenheit (or 65 degrees Celsius), or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten degrees Fahrenheit or more per hour, or a combined total increase of plant influent temperature to 110 degrees Fahrenheit.

(Code 1985, § 30-118; Code 2000, § 114-157)

Sec. 114-161. - Radioactive wastes.

- (a) No person may discharge radioactive wastes or isotopes into public sewers without the permission of the approving authority.
- (b) The approving authority may establish, in compliance with applicable state and federal regulations, regulations for the discharge of radioactive wastes into public sewers.

(Code 1985, § 30-119; Code 2000, § 114-158)

Sec. 114-162. - Impairment of facilities.

- (a) No person may discharge into the public sewers any substance capable of causing:
  - (1) Obstruction to the flow in sewers;
  - (2) Interference with the operation of the treatment processes of the facilities; or
  - (3) Excessive loading of the treatment facilities.
- (b) Discharges prohibited by subsection (a) of this section include, but are not limited to, materials which exert or cause concentrations of:
  - (1) Inert suspended solids greater than 250 mg/l, including, but not limited to:

- a. Fuller's earth;
  - b. Lime slurries; and
  - c. Lime residues;
- (2) Dissolved solids greater than 500 mg/l greater than the concentration in the public water supply, including, but not limited to:
  - a. Sodium chloride; and
  - b. Sodium sulfate;
- (3) Excessive discoloration, including, but not limited to:
  - a. Dye wastes; and
  - b. Vegetable tanning solutions; or
- (4) Biochemical oxygen demand (BOD), Chemical oxygen demand (COD) or chlorine demand in excess of normal plant capacity.
- (c) No person may discharge into the public sewers any substance that may:
  - (1) Deposit grease or oil in the sewer lines in such manner as to clog the sewers;
  - (2) Overload skimming and grease-handling equipment;
  - (3) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamendability of the substance to bacterial action; or
  - (4) Deleteriously affect the treatment process due to excessive quantities.
- (d) No person may discharge any substance into the public sewers which is:
  - (1) Not amenable to treatment or reduction by the processes and facilities employed; or
  - (2) Amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over the discharge to the receiving waters.
- (e) The approving authority shall regulate the flow and concentration of slugs when they may:
  - (1) Impair the treatment process;
  - (2) Cause damage to collection facilities;
  - (3) Incur treatment costs exceeding those for normal wastewater; or
  - (4) Render the waste unfit for stream disposal.
- (f) No person may discharge into the public sewers solid or viscous substances which may violate subsection (a) of this section if present in sufficient quantity or size, including, but not limited to:
  - (1) Ashes;
  - (2) Cinders;
  - (3) Sand;
  - (4) Mud;
  - (5) Straw;
  - (6) Shavings;
  - (7) Metal;
  - (8) Glass;
  - (9) Rags;
  - (10) Feathers;

- (11) Tar;
- (12) Plastics;
- (13) Wood;
- (14) Unground garbage;
- (15) Whole blood;
- (16) Paunch manure;
- (17) Hair and fleshings;
- (18) Entrails;
- (19) Paper products, either whole or ground by garbage grinders;
- (20) Slops;
- (21) Chemical residues;
- (22) Plant residues; or
- (23) Bulk solids.

(Code 1985, § 30-120; Code 2000, § 114-159)

Sec. 114-163. - Compliance with existing authority.

- (a) Unless exception is granted by the approving authority, the public sanitary sewer system shall be used by all persons discharging:
  - (1) Wastewater;
  - (2) Industrial waste; or
  - (3) Polluted liquids.
- (b) Unless unauthorized by the Texas Commission on Environmental Quality (TCEQ), no person may deposit or discharge any waste included in subsection (a) of this section on public or private property in or adjacent to any:
  - (1) Natural outlet;
  - (2) Watercourse;
  - (3) Storm sewer; or
  - (4) Other area within the jurisdiction of the city.
- (c) The approving authority shall verify, prior to discharge, that waste, which is authorized to have discharges, will receive suitable treatment within the provisions of laws, regulations, ordinances, rules and orders of federal, state and local governments.

(Code 1985, § 30-121; Code 2000, § 114-160)

Sec. 114-164. - Approving authority requirements.

- (a) If discharges or proposed discharges to public sewers may deleteriously affect wastewater facilities, processes, equipment or receiving waters; create a hazard to life or health; or create a public nuisance; the approving authority shall require:
  - (1) Pretreatment to an acceptable condition for discharge to the public sewers;

- (2) Control over the quantities and rates of discharge; and
- (3) Payment to cover the cost of handling and treating the wastes.
- (b) The approving authority is entitled to determine whether a discharge or proposed discharge is included under subsection (a) of this section.
- (c) The approving authority shall reject wastes when it determines that a discharge or proposed discharge is included under subsection (a) of this section.

(Code 1985, § 30-122; Code 2000, § 114-161)

Sec. 114-165. - Approving authority review and approval.

- (a) If pretreatment or control is required, the approving authority shall review and approve the design and installation of equipment and processes.
- (b) The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances and other laws.
- (c) Any customer responsible for discharges requiring pretreatment, flow-equalizing or other facilities shall provide and maintain the facilities in effective operating condition at customer's own expense.

(Code 1985, § 30-123; Code 2000, § 114-162)

Sec. 114-166. - Requirements for traps.

- (a) Discharges requiring a trap include:
  - (1) Grease or waste, containing grease in excessive amounts that will impede or stop the flow in the public sewers;
  - (2) Oil;
  - (3) Sand;
  - (4) Flammable wastes; and
  - (5) Other harmful ingredients.
- (b) Any customer responsible for discharges requiring a trap shall, at the customer's own expense and as required by the approving authority:
  - (1) Provide equipment and facilities of a type and capacity approved by the approving authority;
  - (2) Locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection; and
  - (3) Maintain the trap in effective operating condition.

(Code 1985, § 30-124; Code 2000, § 114-163)

Sec. 114-167. - Requirements for building sewers.

Any customer responsible for discharges through a building sewer carrying industrial wastes shall, at the customer's own expense and as required by the approving authority:

- (1) Install an accessible and safely located control manhole;
- (2) Install meters and other appurtenances to facilitate observation sampling and measurement of the waste;

- (3) Install safety equipment and facilities, including but not limited to, ventilation, steps, etc.) where needed; and
- (4) Maintain the equipment and facilities.

(Code 1985, § 30-125; Code 2000, § 114-164)

Sec. 114-168. - Sampling and tests.

- (a) Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the sewage works and determining in the existence of hazards to health, life, limb and property.

(Note: The particular analysis involved will determine whether a 24-hour composite sample from all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, biochemical oxygen demand (BOD) and suspended solids analyses are obtained from 24-hour composites of all outfalls. Where applicable, 16-hour, eight-hour or some other period may be required. Periodic grab samples are used to determine pH and oil and grease).

- (b) Examination and analysis of the characteristics of waters and wastes required by this division shall be:
  - (1) Conducted in accordance with the latest edition of the standard methods; and
  - (2) Determined from suitable samples taken at the control manhole provided or other control point authorized by the city.
- (c) Biochemical oxygen demand (BOD) and suspended solids shall be determined from composite sampling, except to detect unauthorized discharges.
- (d) The city shall determine which users or classes of users may contribute wastewater which is of greater strength than normal domestic wastewater. All users or classes of users so identified shall be sampled for flow, BOD, TSS and pH as directed by the City.
- (e) The city may select an independent firm or laboratory to determine flow, BOD and suspended solids if necessary. Flow may alternately be determined by water meter measurements if no other flow device is available and no other source of raw water is used.

(Code 1985, § 30-126; Code 2000, § 114-165)

Sec. 114-169. - User charge system.

- (a) Persons making discharges of industrial waste into the city's system shall pay a charge to cover all costs of collection and treatment.
- (b) When discharges of any waste into the city's system are approved by the approving authority, the city or its authorized representative shall enter into an agreement or arrangement providing:
  - (1) Terms of acceptance by the city;
  - (2) Payment by the person making the discharge, in accordance with the sewer user charge system, as established in subsection (d) of this section;
  - (3) New sewer construction and sewer connection procedures and requirements shall be in accordance with chapter 98, subdivisions and section 22-266 (the plumbing code);
  - (4) A sewer application approved with connection fee paid; and
  - (5) Construction of sewer connections shall be approved by city inspectors prior to sewer use.

- (c) The city will apply excess revenues collected from users of the wastewater treatment system to the wastewater system depreciation reserve.
- (d) The user charge system shall be computed annually, based on the following formula:

$$C_u = (C_t \div V_t) \times V_u$$

The symbols in the equation of this subsection are defined as follows:

$C_u$  = User's charge for operation and maintenance costs of wastewater facilities of the city.

$C_t$  = Total operation and maintenance costs of wastewater facilities of the city.

$V_u$  = Total volume contributed from all users.

$V$  = Total volume contributed from the user.

The annual rate, established by the formula, is set forth in division 5 of this article and will become effective on the 60th day following the close of the city's fiscal year.

(Code 1985, § 30-127; Code 2000, § 114-166)

Sec. 114-170. - Continuation of discharge of industrial waste.

A customer discharging industrial wastes into public sewers prior to the effective date of the ordinance from which this division is derived may continue without penalty, so long as the customer does not increase the quantity or quality of discharge without the permission of the approving authority.

(Code 1985, § 30-128; Code 2000, § 114-167)

Sec. 114-171. - Conditions of permits.

- (a) The city may grant a permit to discharge to persons meeting all requirements of the savings clause, provided that the person:
- (1) Submit an application within 60 days after the effective date of the ordinance from which this division is derived on forms supplied by the approving authority;
  - (2) Secure approval by the approving authority of plans and specifications for pretreatment facilities when required; and
  - (3) Has complied with all the requirements for agreements or arrangements, including but not limited to provisions for the:
    - a. Payment of charges;
    - b. Installation and operation of pretreatment facilities; and
    - c. Sampling and analysis to determine quantity and strength; and
  - (4) Provides a sampling point subject to the provisions of this division and approval of the approving authority.
- (b) A person applying for a new discharge shall:
- (1) Meet all conditions of subsection (a) of this section; and

- (2) Secure a permit prior to discharging any waste.

(Code 1985, § 30-129; Code 2000, § 114-168)

Sec. 114-172. - Power to enter property.

- (a) The director and other duly authorized employees of the city, bearing proper credentials and identification, are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this division.
- (b) Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security and fire protection.
- (c) Except when caused by negligence or failure of the person to maintain safe conditions, the city shall indemnify the company against loss or damage to its property for personal injury or property damage asserted against the person and growing out of the sampling operation.
- (d) The director and other duly authorized employees of the city, bearing proper credentials and identification, are entitled to enter all private properties through which the city holds a negotiated easement for the purposes of:
  - (1) Inspection, observation, measurement, sampling or repair;
  - (2) Maintenance of any portion of the sewerage system lying within the easements; and
  - (3) Conducting any other authorized activity.

All activities shall be conducted in full accordance with the terms of the negotiated easement pertaining to the private property involved.

- (e) No person acting under the authority of this provision may inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point, having a direct bearing on the kind and source of discharge to the public sewers.

(Code 1985, § 30-130; Code 2000, § 114-169)

**State Law reference**— Entry powers and inspections, V.T.C.A., Water Code §§ 26.171, 26.173.

Sec. 114-173. - Authority to disconnect service.

- (a) The city may terminate water and wastewater disposal service and disconnect an industrial customer from the system when:
  - (1) Acids or chemicals damaging to sewer lines or treatment processes are released to the sewer, causing accelerated deterioration of these structures or interfering with the proper conveyance and treatment of wastewater;
  - (2) A governmental agency informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to a watercourse, and it is found that the customer is delivering wastewater to the city's system that cannot be sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment; or
  - (3) The customer:
    - a. Discharges industrial waste or wastewater that is in violation of the permit issued by the approving authority;
    - b. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system;



- c. Fails to pay monthly bills for water and sanitary sewer services when due; or
  - d. Repeats a discharge of prohibited wastes to public sewers in violation of sections 114-155 through 114-162.
- (b) If service is disconnected pursuant to subsection (a)(2) of this section, the city shall:
  - (1) Disconnect the customer;
  - (2) Supply the customer with the governmental agency's report and provide the customer with all pertinent information; and
  - (3) Continue disconnection until such time as the industrial customer provides pretreatment/additional treatment or other facilities designed to remove the objectionable characteristics from customer's wastes.

(Code 1985, § 30-131; Code 2000, § 114-170)

Sec. 114-174. - Notice.

The city shall serve persons discharging in violation of this division with written notice, stating the nature of the violation and providing a reasonable time limit for satisfactory compliance.

(Code 1985, § 30-132; Code 2000, § 114-171)

Sec. 114-175. - Continuing prohibited discharges.

No person may continue discharging in violation of this division beyond the time limit provided in the notice.

(Code 1985, § 30-133; Code 2000, § 114-172)

Sec. 114-176. - Violations and penalties.

- (a) Any person violating any of the provisions of this division is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$2,000.00. Each day a violation of this division continues shall be a separate offense.
- (b) The city council, by majority vote, may direct legal counsel to pursue an injunction or writ of mandamus or other valid legal remedy in district, state or appellate courts to enforce this division.
- (c) In addition to proceeding under the authority of subsection (a) of this section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under the authority of statutes or other ordinances against a person's continuing prohibited discharges.

(Code 1985, § 30-134; Code 2000, § 114-173)

Sec. 114-177. - Failure to pay.

In addition to sanctions provided for by this division, the city is entitled to exercise sanctions provided for by the other ordinances of the city for failure to pay the bill for water and sanitary sewer service when due.

(Code 1985, § 30-135; Code 2000, § 114-174)

Sec. 114-178. - Penalty for criminal mischief.

The city may pursue all criminal and civil remedies to which it is entitled under the authority of statutes and ordinances against a person negligently, willfully or maliciously causing loss by tampering with or destroying public sewers or treatment facilities.

(Code 1985, § 30-136; Code 2000, § 114-175)

**State Law reference**— Criminal mischief, V.T.C.A., Penal Code § 28.03.

Secs. 114-179—114-209. - Reserved.

#### DIVISION 4. - REPAIR OF SANITARY SEWER LEAKS ON PRIVATE PROPERTY

Sec. 114-210. - Responsibility and application.

- (a) Maintaining the integrity of the city's sanitary sewer system shall be the responsibility of the director of public works or his/her designee for the city.
- (b) This division applies to all customer sewer service lines on private property which flow into public lines in city streets, alleys and easements, including, but not limited to single-family or duplex residences, mobile homes and/or trailer parks, apartments, places of business, schools, hospitals, churches, structures of any kind, vacant buildings or vacant land.
- (c) The customer shall be responsible for the installation, maintenance and repair of the sewer service line from the foundation of the house or commercial building to the sewer line owned by the city.

(Code 1985, § 30-141; Code 2000, § 114-201)

Sec. 114-211. - Definitions.

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

*Infiltration* (as defined by the Federal Environmental Protection Agency) means the water entering a sewer system and service connections from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls.

*Inflow* (as defined by the Federal Environmental Protection Agency) means the water discharged into a sewer system and service connections from such sources as, but not limited to, roof leaders, cellars, swimming pool and/or spa drains, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers and combined sewers, catchbasins, stormwaters, surface runoff, and street washwaters or drainage.

*Sanitary sewer* means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

*Sewer service line* means the sewer from the foundation of the house or commercial building to the sewer line owned by the city.

*Storm sewer* means a public sewer which carries stormwater and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

(Code 1985, § 30-142; Code 2000, § 114-202)

Sec. 114-212. – Customer Service Inspection prior to connection, reconnection or transfer of service.

Prior to the original connection, reconnection or transfer of water and/or sewer service to a tenant or property owner, the city at its option shall perform a Customer Service Inspection of the customer's private system and verify the integrity thereof. Any defects discovered in the private line shall be repaired by the property owner or his/her agent prior to obtaining the original connection, reconnection or transfer of city water and/or sewer service.

(Code 1985, § 30-143; Code 2000, § 114-203)

Sec. 114-213. - Notification to property owners.

- (a) The public works department of the city will notify in writing by registered mail, return receipt requested, each property owner on whose property a source of inflow or infiltration of water into the city's sanitary sewer system exists, as well as the nature and location of the sources. The property owner shall, within ten (10) calendar days of date of notification, have the sources repaired at the property owner's expense.
- (b) A cut-off notice will be sent on the eleventh (11<sup>th</sup>) day if the repairs have not been satisfactorily completed.
- (c) Penalties provided for in this division shall be enforced as set forth in this ordinance.

(Code 1985, § 30-144; Code 2000, § 114-204)

Sec. 114-214. - Repairs by licensed plumber or homeowner; inspection and approval or disapproval by city.

- (a) If the line in question is vitreous clay pipe and cannot be satisfactorily repaired, the property owner may be required to replace the entire private clay sewer service line with PVC pipe Schedule 40.
- (b) All repairs must be made by a plumber licensed by the state or by a resident property owner. A resident homeowner may install or maintain plumbing and/or sewer equipment within the property owner's own property boundaries, provided that the work is done by the property owner and used exclusively by the property owner and the property owner's family. Such privilege does not convey the right to violate any provision of this Code nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees therefor. Both the plumber or owner must have a valid city plumbing permit for these specific repairs prior to work commencing. (See section 22-266, licensing and regulation of plumbers.)
- (c) After the repair has been completed and before it has been covered, the city plumbing inspection department shall be notified to inspect and approve its adequacy and workmanship. If the city plumbing inspector leaves a green tag signifying a satisfactory repair, the plumber or owner may replace the cover.
- (d) However, if the city plumbing inspector leaves a red tag, the plumber or owner must contact the designated city official on the red tag and correct the repairs as specified and then notify the city plumbing inspection department to reinspect the corrected repairs. No cover may be replaced until a green tag is attached to the repairs by the city plumbing inspection department. Otherwise, owner and/or plumber shall be required to excavate, and the city shall reinspect the repairs and if still defective, turn off water and/or sewer service.

(Code 1985, § 30-145; Code 2000, § 114-205)

Sec. 114-215. - Penalties for failure to make repairs.

- (a) Should the property owner fail to make the necessary repairs within the ten (10) day period as set out in section 114-213, the city shall have the option of thereafter assessing a surcharge fee to the property owner's monthly wastewater charge (the charge shall be determined by the city's existing formula for calculating domestic wastewater charges with exclusion of the 25,000 gallon maximum charge) or terminating water and/or sewer service to the property.
- (b) If after exercising reasonable diligence, the city is unable to locate the property owner or his/her agent or the property owner or his/her agent refuses to make the necessary repairs, the city or its agent shall have the right to go on the land or property upon which the source of inflow or infiltration exists and make such repairs and inspection as provided in section 114-214. The owner of the property shall be liable to the city for the cost of such work and shall pay such cost upon demand, which cost may be included upon the property owner's next monthly wastewater charge with a reasonable service charge added for each month the bill remains unpaid or the city may cut off the water and/or sewer upon 30 days written notice to the customer.
- (c) If the property owner is unknown or does not pay the charge, the city shall file a lien upon the land for the cost of the repair and a fine for the extraneous water disposed of through the city's sanitary sewer system and wastewater treatment plant.

(Code 1985, § 30-146; Code 2000, § 114-206)

Sec. 114-216. - Appeals.

Appeals shall be according to the procedure as provided in section 2-267.

(Code 1985, § 30-147; Code 2000, § 114-207)

Secs. 114-217—114-240. - Reserved.

#### DIVISION 5. - USER CHARGE SYSTEM

Sec. 114-241. - Purpose and intent.

It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the citizens of the city to collect charges from all users who contribute wastewater to the city's public-owned treatment works (POTW). The proceeds of such charges so derived will be used for the purposes of operating, maintaining and the administration of the public-owned treatment works (POTW).

(Code 1985, § 30-155; Code 2000, § 114-231)

Sec. 114-242. - Definitions.

Unless the context specifically indicates otherwise, the meaning of the terms used in this division shall be as defined in this section, in section 114-154 and/or as follows:

*Commercial user* means all retail stores, restaurants, office buildings, laundries and other private business and service establishments.

*Director of public works* means the director of public works (including water and sewer) of the city or his/her duly authorized deputy, agent or representative.

*Governmental user* includes legislative, judicial, administrative and regulatory activities of federal, state and local government.

*Industrial user* shall include any nongovernmental, nonresidential user of publicly owned treatment works, which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions:

- (1) Division A: Agriculture, forestry and fishing;
- (2) Division B: Mining;
- (3) Division D: Manufacturing;
- (4) Division E: Transportation, communication, electric, gas and sanitary; and
- (5) Division I: Services.

*Institutional user* includes social, charitable, religious and educational activities, such as schools, churches, hospitals, nursing homes, penal institutions and similar institutional users.

*Multifamily user* means any contributor to the city's treatment works whose lot, parcel of real estate or building is used for domestic purposes by two or more users.

*Operation, maintenance and administrative* means those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and for which such works were designed and constructed. The term "operation and maintenance" includes the term "replacement," as defined in this section.

*Private water meter* means a water-volume measuring and recording device, furnished, maintained and/or installed by or for a user and approved by the director of public works or his/her duly authorized deputy, agent or representative.

*Public-owned treatment works (POTW)* means any devices and systems for the storage, treatment, transport, recycling or reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These devices and systems include:

- (1) The intercepting sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and their appurtenances;
- (2) Extensions, improvements, remodeling, additions and alterations thereof;
- (3) Elements essential to provide a reliable recycled supply, such as standby treatment units and clear well facilities; and
- (4) Any works, including the site acquisition of land that will be an integral part of the treatment process or is used for ultimate disposal of residue resulting from such treatment (including land for composting sludge, temporary storage of such compost and land used for the storage of treated wastewater in land treatment systems before land application); or
- (5) Any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined stormwater and sanitary sewer systems.

*Public water meter* means a water-volume measuring and recording device furnished, maintained and installed by the city.

*Replacement* means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

*Residential user* means any contributor to the city's treatment works whose lot, parcel of real estate or building is used for domestic dwelling purposes only.

*Shall* is mandatory; *may* is permissive.

*Useful life* means the estimated period during which a treatment works will be operated.

*User charge* means that portion of the total wastewater service charge (billing) which is levied in a proportional and adequate manner for the cost of operation, maintenance, administration and replacement of the wastewater treatment works.

*User charge calculation* means the user charge system rate of the city, as calculated under section 114-169 and this division, exclusive of any monies for debt service or funds required to be generated by the wastewater system in addition to operation, maintenance and administration costs.

(Code 1985, § 30-156; Code 2000, § 114-232)

Sec. 114-243. - Disposition of revenues.

- (a) The revenues collected, as a result of the user charges levied, shall be credited to the utility general sewer receipts account, a separate nonlapsing account for the operation, maintenance and administration of the wastewater collection and treatment systems.
- (b) Fiscal year-end balances in the operation, maintenance and administration sewer receipts fund shall be used for no other purposes than those designated. Monies which have been transferred from other sources to meet temporary shortages in the operation, maintenance and administration funds shall be returned to their respective accounts upon the appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge rates shall be adjusted such that the transferred monies will be returned to their respective accounts within six months of the fiscal year in which the monies were borrowed. The city will apply excess revenues collected or deficits associated with the user charge to the cost of the operation, maintenance and administration attributable to that class for the next year and adjust the rate accordingly.
- (c) Each user account of the wastewater treatment system will be notified at least annually, in conjunction with a regular sewer bill of the rate and that portion of the sewer bill user charges which are attributable to the operation, maintenance and administrative costs of the wastewater treatment system.

(Code 1985, § 30-157; Code 2000, § 114-233)

Sec. 114-244. - Rates.

- (a) Each user shall pay for the services provided by the public-owned treatment works (POTW) based on the customer's use of the treatment works, as determined by water meter readings (or other appropriate volume determinations) and then calculated in accordance with the user charge calculation in section 114-169(d) and approved by the director of public works or his/her duly authorized deputy, agent or representative.
- (b) For residential and multiresidential units, industrial, institutional, governmental and commercial users, monthly user charges will be based on actual water usage (in accordance with the user charge calculation). If a residential or multiresidential unit, commercial, institutional or industrial user has a consumptive use of water or, in some other manner, uses water which is not discharged into the POTW, the user charge for that contributor may be based on readings of a wastewater meter or separate water meter (or other appropriate volume determination), installed and maintained at the user's expense and approved by the director of public works or his/her duly authorized deputy, agent or representative.
- (c) Each user shall pay a user charge rate for the operation, maintenance and administrative costs. Such rate shall be established annually in an amendment to sections 114-57, 114-134 and 114-135, establishing new utility rates.
- (d) For those users whose wastewater has a greater strength than normal domestic sewage, a surcharge, in addition to the normal user charge, will be collected (Regulatory Citation, 40 CFR part 35.2140, section 301, of the Act). The surcharge for operation, maintenance and replacement shall be proportional to the strength of normal domestic wastewater.

- (e) Any user which discharges any toxic pollutants (as defined in sections 114-154, 114-156 and 114-157) which cause an increase in the cost of managing the effluent of the sludge from the public-owned treatment works (POTW), or any user which discharges any substance which, singly or by interaction with other substances, causes identifiable increases in the cost of the operation, maintenance or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be determined by the director of public works or his/her duly authorized deputy, agent or representative.
- (f) The user charge rates established by this section shall apply to all users of the public-owned treatment works (POTW).

(Code 1985, § 30-158; Code 2000, § 114-234)

Sec. 114-245. - Monthly report submitted by certain users.

All users contributing more than 1,500,000 gallons per month and/or whose water strength is greater than normal domestic wastewater shall prepare and file with the director of utilities a report that shall include pertinent data relating to the user's wastewater characteristics, including the methods of sampling and measurement, to obtain these data; and these data shall be used to calculate the user charge for that user. The director of public works or his/her duly authorized deputy, agent or representative shall have the right to gain access to the user's waste stream and collect samples as necessary. Should the director of public works do so, and should the results be substantially different, as determined by the director of public works, from the data submitted by the user, the user charge for that user shall be revised for the next available billing cycle/period.

(Code 1985, § 30-159; Code 2000, § 114-235)

Sec. 114-246. - Appeals; review by City Manager.

- (a) Any user who feels the user charge is unjust, in error or inequitable shall make appeal by written application to the office of the City Manager, requesting a review of the user charge. Such written request shall show the actual or estimated average flow and/or strength of his wastewater in comparison with the value upon which the charge is currently based, including how the measurements or estimates were made.
- (b) Review of the request shall be made by the City Manager of the city or his/her duly authorized deputy, agent or representative; and, if substantiated, the user charges for that user shall be recomputed, based on the revised flow and/or strength data, and the charges shall be applicable to the next billing cycle/period.

(Code 1985, § 30-160; Code 2000, § 114-236)

Sec. 114-247. - Annual review of charges.

- (a) The director of public works and the city finance director will review the user charges at least annually (Regulatory Citation, 40 CFR 35.2140(A), (B)) and recommend, based on the "user charge calculations," to the city council revisions necessary to ensure that adequate revenues are generated to pay the operation, maintenance and administrative costs; and that the system continues to provide for the proportional distribution of operation, maintenance and administrative costs, including replacement costs among users and user classes.
- (b) Upon approval of the user charge rate by the city council, the director of public works shall notify each user (by public notice or other appropriate method) (Regulatory Citation, 40 CFR 35.2140) of any revisions to the user charge rate for the operation, maintenance and administrative costs, including the replacement of the public-owned treatment works (POTW).

(Code 1985, § 30-161; Code 2000, § 114-237)

Sec. 114-248. - Severability; precedence of this division.

If any provision, section, subsection, sentence, clause or phrase of this division, or the application of to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining proportions or set of circumstances shall not be affected hereby, it being the intent of the city council in adopting this division that no portion thereof or provisions or regulation contained in this section shall become inoperative or fail by reason of an unconstitutionality; and all provisions of this division are declared to be reasonable. This user charge system division shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of sections 204(b)(1)(A) and 35.2140 of the Federal Clean Water Act.

(Code 1985, § 30-162; Code 2000, § 114-238)

Secs. 114-249—114-274. - Reserved.

## ARTICLE V. - CROSS CONNECTION CONTROL POLICY

### DIVISION 1. - GENERALLY

Sec. 114-275. - Definitions.

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

*Air gap* means a physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or nonpressure receiving vessel. An approved air gap shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel; in no case less than one inch.

*Approved.*

- (1) The term "approved," as used in this article in reference to a water supply, means a water supply that has been approved by the health agency having jurisdiction.
- (2) The term "approved," as used in this article in reference to an air gap, a double check valve assembly, a reduced pressure principle backflow prevention assembly or other backflow prevention assemblies or methods means an approval by the administrative authority having jurisdiction.

*Auxiliary water supply* means any water supply on or available to the premises other than the purveyor's approved public water supply will be considered as an auxiliary water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source such as a well, spring, river, stream, harbor, etc., or used waters or industrial fluids. These waters may be contaminated or polluted, or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

*Backflow* means the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of the potable supply of water from any source or sources. See *Backsiphonage* and *Backpressure*.

*Backpressure* means any elevation of pressure in the downstream piping system (by pump, elevation of piping, or stream and/or air pressure) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow.

*Backsiphonage* means a form of backflow due to a reduction in system pressure which causes a subatmospheric pressure to exist at a site in the water system.



*Backflow preventer* means an assembly or means designed to prevent backflow.

*Chief executive officer of the public water system* means the person in charge and invested with the authority and responsibility for the implementation of an effective cross connection control program and for the enforcement of the provisions of this article.

*Contamination* means an impairment of the quality of the water which creates an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids, waste, etc.

*Cross connection* means any unprotected actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross connections.

- (1) The term "direct cross connection" means a cross connection which is subject to both backsiphonage and backpressure.
- (2) The term "indirect cross connection" means a cross connection which is subject to backsiphonage only.

*Cross connection control by containment.* The term "service protection" means the appropriate type or method of backflow protection at the service connection, commensurate with the degree of hazard of the consumer's potable water system.

*Cross connection, controlled,* means a connection between a potable water system and a nonpotable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

*Double check valve backflow prevention assembly* means an assembly composed of two independently acting, approved check valves, including tightly closing resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks. (See Specifications, for additional details.) This assembly shall only be used to protect against a nonhealth hazard (i.e., pollutant).

*Hazard, degree of,* means either a pollution (nonhealth) or contamination (health) hazard and is derived from the evaluation of conditions within a system.

*Hazard, health,* means an actual or potential threat of contamination of a physical or toxic nature to the public potable water system or the consumer's potable water system that would be a danger to health.

*Hazard, plumbing,* means an internal or plumbing-type cross connection in a consumer's potable water system that may be either a pollution or a contamination type hazard. This includes, but is not limited to cross connections to toilets, sinks, lavatories, wash trays and lawn sprinkling systems. Plumbing type cross connections can be located in many types of structures, including homes, apartment houses, hotels and commercial or industrial establishments. Such a connection, if permitted to exist, must be properly protected by an appropriate type of backflow prevention assembly.

*Hazard, pollution,* means an actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system but which would not constitute a health or system hazard, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to tile system or its appurtenances.

*Hazard, system,* means an actual or potential threat of severe danger to the physical properties of the public or the consumer's potable water system or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

*Industrial fluids* means any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration which would constitute a health, system, pollution or

plumbing hazard if introduced into an approved water supply. The term "industrial fluids may include, but not be limited to:

- (1) Polluted or contaminated used waters;
- (2) All types of process waters and "used waters" originating from the public potable water system which may deteriorate in sanitary quality;
- (3) Chemicals in fluid form;
- (4) Plating acids and alkalies;
- (5) Circulated cooling waters connected to an open cooling tower and/or cooling waters that are chemically or biologically treated or stabilized with toxic substances;
- (6) Contaminated natural waters such as from wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems, etc.; and
- (7) Oils, gases, glycerin, paraffins, caustic and acid solutions and other liquid and gaseous fluids used industrially, for other processes, or for firefighting purposes.

*Pollution* means an impairment of the quality of the water to a degree which does not create a hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such waters for domestic use.

*Public water* system means a system for the provision of water to the public as defined in Title 30 of the Texas Administrative Code, Section 290.38.

*Reduced pressure principle backflow prevention assembly* means an assembly containing two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located resilient seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly. This assembly is designed to protect against a nonhealth (i.e., pollutant) or a health hazard (i.e., contaminant). This assembly shall not be used for backflow protection of sewage or reclaimed water.

*Water, nonpotable*, means a water supply which has not been approved for human consumption by the health agency having jurisdiction.

*Water, potable*, means any public potable water supply which has been investigated and approved by the health agency. The system must be operating under a valid health permit. In determining what constitutes an approved water supply, the health agency has final judgment as to its safety and potability.

*Water, service connection* means the terminal end of a service connection from the public potable water system (i.e., where the water purveyor may lose jurisdiction and sanitary control of the water at its point of delivery to the consumer's water system). If a water meter is installed at the end of (the service connection, then the service connection means the downstream end of the water meter.

*Water, used*, means any water supplied by a water purveyor from a public potable water system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water purveyor.

(Code 2000, § 114-261)

Sec. 114-276. - Purpose.

The purpose of this article is to:

- (1) Protect the public potable water supply of the city from the possibility of contamination or pollution by isolating within the consumer's internal distribution system or the consumer's private water system such contaminants or pollutants which could backflow into the public water systems;

- (2) Promote the elimination or control of existing cross connections, actual or potential, between the consumer's in-plant potable water system and non-potable water system, plumbing fixtures and industrial piping systems; and
- (3) Provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

(Code 2000, § 114-262)

Sec. 114-277. - Responsibility.

The chief executive officer of the public water system shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the chief executive officer of the public water system, an approved backflow prevention assembly is required at the property owner's water service connection; or, within the property owner's private water system for the safety of the water system, the chief executive officer or his/her designated agent shall give notice in writing to install such an approved backflow prevention assembly at a specific location on the premises. The property owner shall immediately install such an approved backflow prevention assembly at the property owner's own expense; and failure, refusal or inability on the part of the property owner to install, have tested and maintained such assembly shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

(Code 2000, § 114-263)

Secs. 114-278—114-302. - Reserved.

DIVISION 2. - REQUIREMENTS

Sec. 114-303. - Water system.

- (a) The water system shall be considered to be made up of two parts: The public water system and the property owner's system.
- (b) The public water system shall consist of the source facilities and the distribution system; and shall include all those facilities of the water system under the complete control of the public water system, up to the point where the property owner's system begins.
- (c) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system.
- (d) The distribution system shall include the network of conduits used for the delivery of water from the source to the property owner's system.
- (e) The property owner's system shall include those parts of the facilities beyond the termination of the public water system's distribution system which are utilized in conveying potable water to points of use.

(Code 2000, § 114-286)

Sec. 114-304. - Policy.

No water service connection to any premises shall be installed or maintained by the public water system unless the water supply is protected as required by city laws and regulations and this article. Service of water to any premises shall be discontinued by the public water system if a backflow

prevention assembly required by this article is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

(Code 2000, § 114-287)

Sec. 114-305. - Inspection.

The property owner's system should be open for inspection at all reasonable times to authorized representatives of the chief executive officer of the public water system to determine whether unprotected cross connections or other structural or sanitary hazards, including violations of these regulations exist. When such a condition becomes known, the chief executive officer or authorized representatives shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the property owner has corrected the condition in conformance with the city statutes relating to plumbing and water supplies and the regulations adopted pursuant thereto.

(Code 2000, § 114-288)

Sec. 114-306. - Installation.

An approved backflow prevention assembly shall also be installed on each service line to a property owner's water system at or near the property line or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line wherever the following conditions exist:

- (1) In the case of premises having an auxiliary water supply which is not or may not be of safe bacteriological or chemical quality and which is not acceptable as an additional source as determined by the chief executive officer, the public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line commensurate with the degree of hazard.
- (2) In the case of premises on which any industrial fluids or any other objectionable substance is handled in such a fashion as to create an actual or potential hazard to the public water system, the public system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line commensurate with the degree of hazard. This shall include the handling of process waters and waters originating from the public water system which have been subject to deterioration in quality.
- (3) In the case of premises having:
  - a. Internal cross connections that cannot be permanently corrected or protected against; or
  - b. Intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross connections exist;the public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line.

(Code 2000, § 114-289)

Sec. 114-307. - Protective assembly required.

The type of protective assembly required under section 114-306 shall depend upon the degree of hazard which exists as follows:

- (1) In the case of any premises where there is an auxiliary water supply as stated in section 114-306(1) and it is not subject to any of the following rules, the public water system shall be protected by an approved air gap or an approved reduced pressure principle backflow prevention assembly.
- (2) In the case of any premises where there is water or substance that would be objectionable but not hazardous to health, if introduced into the public water system, the public water system shall be protected by an approved double check valve backflow prevention assembly.
- (3) In the case of any premises where there is any material dangerous to health which is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected by an approved air gap or an approved reduced pressure principle backflow prevention assembly. Examples of premises where these conditions will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.
- (4) In the case of any premises where there are unprotected cross connections, either actual or potential, the public water system shall be protected by an approved air gap or an approved reduced pressure principle backflow prevention assembly at the service connection.
- (5) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross connection survey, the public water system shall be protected against backflow from the premises by either an approved air gap or an approved reduced pressure principle backflow prevention assembly on each service to the premises.
- (6) In the case of premises with lawn irrigation systems, the public water system connected to lawn irrigation systems shall be protected against backflow by a pressure vacuum breaker or a reduced pressure principle assembly. A double check valve shall not be used. Where chemicals are introduced into the irrigation system, the public water system shall be protected against backflow by a reduced pressure principle assembly.

(Code 2000, § 114-290)

Sec. 114-308. - Backflow prevention standards.

1. Any backflow prevention assembly required in this article shall be a make, model and size approved by the chief executive officer of the public water system. The term "approved backflow prevention assembly" means an assembly that has been manufactured in full conformance with the standards established by the American Water Works Association entitled WWA/ANSI C510-92 Standard for Double Check Valve Backflow Prevention Assemblies and AWWA/ANSI C511-92 Standard for Reduced Pressure Principle Backflow Prevention Assemblies and have met completely the laboratory and field performance specifications of the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California (USC FCCCHR) established in Specifications of Backflow Prevention Assemblies, Section 10 of the most current edition of the Manual of Cross-Connection Control.
2. Such AWWA and USC FCCCHR standards and specifications have been adopted by the City of Bay City Public Works Department. Final approval shall be evidenced by a "Certificate of Compliance" for the said AWWA standards, or "Certificate of Approval" for the USC FCCCHR specifications, issued by an approved testing laboratory.

(Code 2000, § 114-291)

Sec. 114-309. - Testing laboratory.

Backflow preventers which may be subjected to backpressure or backsiphonage that have been fully tested and have been granted a certificate of approval by a qualified laboratory and are listed on the

laboratory's current list of approved backflow prevention assemblies may be used without further test or qualification.

(Code 2000, § 114-292)

Sec. 114-310. - Field tests required.

1. It shall be the duty of the property owner or property owner's designee where backflow prevention assemblies are installed to have a field test performed by a state licensed backflow prevention assembly tester upon installation and at least annually. Instances where the chief executive officer deems the hazard to be great enough field tests may be required at more frequent intervals.
2. Field tests shall be at the expense of the property owner or property owner's designee and shall be performed by a state licensed backflow prevention assembly tester.
3. Backflow prevention assemblies that fail testing shall be repaired or replaced and retested at the expense of the property owner before returning the backflow prevention assembly to service.
4. The backflow prevention assembly tester that performs the inspection and testing shall complete a report on a form approved by the public water system for each assembly tested. The original signed and dated form must be submitted to the public water system within ten (10) days of performing the test. Only City of Bay City Backflow Prevention Assembly Test and Maintenance Report or an approved Texas Commission on Environmental Quality Backflow Prevention Assembly Test and Maintenance Report form will be accepted.
5. Property owners shall retain a copy of all test and maintenance reports for at least three (3) years after the date of any such tests.
6. Property owners that fail to have backflow prevention assemblies tested within thirty (30) days of the annual field test date may have water service terminated. Service will not be restored until the backflow prevention assembly passes field tests.

(Code 2000, § 114-293)

Sec. 114-311. - Exemptions.

All presently installed backflow prevention assemblies which do not meet the requirements of this article but were approved assemblies for the purposes described in this article at the time of installation and which have been properly maintained, shall, except for the testing and maintenance requirements under section 114-310, be excluded from the requirements of these rules so long as the chief executive officer is assured that they will satisfactorily protect the public water system. Whenever the existing assembly is moved from the present location or requires more than minimum maintenance or when the chief executive officer finds that the maintenance constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this section.

(Code 2000, § 114-294)

Sec. 114-312. - Rules and policies.

The chief executive officer is authorized to make all necessary and reasonable rules, standards and policies with respect to the enforcement of this article. All such rules and policies shall be consistent with the provisions of this article and all other policies of the city in regard to water quality and the protection of public health and safety.

(Code 2000, § 114-295)

Sec. 114-313 – Enforcement

(a) The failure to perform any action that is required by this division, or the performance of any action that is prohibited by this division shall constitute a violation of this division.

(b) Criminal penalty. A conviction for a violation of any provision of this division shall constitute a Class C misdemeanor. A person convicted of a violation of this division shall be fined an amount of not less than two hundred dollars (\$200.00) per violation and a maximum of not more than two thousand dollars (\$2,000.00) per violation. Each violation of this division shall constitute a separate offense, and each day a violation continues shall be considered a new offense. A culpable mental state is not required to prove an offense under this division.

(c) Civil penalty. A civil penalty may be imposed for each violation of any provision of this division in an amount not to exceed five thousand dollars (\$5,000.00) per violation. Each violation of any provision of this division shall constitute a separate violation, and each day a violation continues shall be considered a new violation.

(d) Authorization to enforce. The City of Bay City Public Works Department is authorized to take any action authorized by this division against any person committing a violation of this division within the City of Bay City service area. The grant of authority set out in this section does not in any way diminish the authority of the office of the city attorney to take any action necessary to enforce the terms of this division, to prosecute violations of this division, and to defend the legality of this division, if challenged.

(e) Should the City of Bay City Public Works Department give written notice of a violation of this division to a property owner and the violation is not fully remedied within thirty (30) days after the date of the notice, the City of Bay City Public Works Department may terminate water, sewer and/or sanitation service to the location where the violation occurred.