Aurora Municipal Code

**Chapter 138- Utilities**

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**ARTICLE 1 – GENERAL**

**Secs. 138-1—138-25 Reserved**

**ARTICLE 2 – UTILITY ENTERPRISE**

Sec. 138-26. 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:

*Grant* means any direct cash subsidy or other direct contribution of money from the state or any local government in the state which is not required to be repaid. The term "grant" does not include:

(1)

Any indirect benefit conferred upon the utility enterprise from the state or any local government in the state;

(2)

Any revenues resulting from rates, fees, assessments, or other charges imposed by the utility enterprise for the provision of goods or services by such enterprise; or

(3)

Any federal funds, regardless of whether such federal funds pass through the state or any local government in the state prior to receipt by the utility enterprise.

*Storm drainage facilities* means any one or more of the various devices used in the conveyance, control, or storage of stormwaters, floodwaters or surface drainage waters to, through and from drainage areas to points of final outlet.

*Utility activity* includes but is not limited to the diversion, storage, carriage, delivery, distribution, collection, treatment, use, reuse, augmentation, exchange, or discharge of water, the provision of retail or wholesale water, wastewater, or storm drainage services, and the acquisition of water or water rights in accordance with applicable provisions of state law, the city Charter, and this Code.

*Utility enterprise* means the utility activity business owned by the city, which business receives under ten percent of its annual revenues in grants from all state and local governments combined and which is authorized to issue its own revenue bonds pursuant to this Code or other applicable law.

*Wastewater facilities* means any one or more of the various devices used in the collection, treatment, or disposition of sewage or industrial, commercial, or domestic wastes of a liquid or water-carried nature, together with any groundwater, surface water, or stormwater that may be contributed into or permitted to enter such devices.

*Water facilities* means any one or more works and improvements used in and as a part of the collection, treatment, or distribution of water for the beneficial uses and purposes for which the water has been or may be appropriated.

(Code 1979, § 39-17)

**Cross reference—** Definitions generally, § 1-2.

Sec. 138-27. Legislative declaration.

By virtue of article XX, sections 1 and 6 of the state constitution, the city has the power to construct, condemn and purchase, acquire, lease, add to, maintain, conduct and operate waterworks and any other public utilities, for its own use and the use of its citizens, and to legislate upon, provide, regulate, conduct, and control the issuance, refunding and liquidation of all kinds of municipal obligations. Accordingly, the city council finds and determines that the city, by and through its water department, has historically provided and will continue to provide water, wastewater, and storm drainage services by means of an enterprise, as that term is defined by state law. The city council further declares its intent that the city's utility enterprise be operated and maintained so as to exclude its activities from the application of article X, section 20 of the state constitution.

(Code 1979, § 39-16; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-28. Powers.

In addition to any of the powers it may have by virtue of any of the applicable provisions of state law, the city Charter, and this Code, the utility enterprise shall have the power under this article to:

(1)

Acquire by gift, purchase, lease, or exercise of the right of eminent domain, construct, reconstruct, improve, better and extend water, wastewater and storm drainage facilities, wholly within or wholly without the city or partially within and partially without the city, and acquire in the name of the city by gift, purchase, or the exercise of the right of eminent domain lands, easements, and rights in land in connection therewith;

(2)

Operate and maintain water, wastewater and storm drainage facilities for its or the city's own use and for the use of public and private consumers and users within and without the territorial boundaries of the city;

(3)

Accept federal funds under any federal law in force to aid in financing the cost of engineering, architectural, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other action preliminary to the construction of water, wastewater and storm drainage facilities;

(4)

Accept federal funds under any federal law in force for the construction of necessary water, wastewater and storm drainage facilities;

(5)

Enter into joint operating agreements, contracts, or arrangements with consumers concerning water, wastewater and storm drainage facilities, whether acquired or constructed by the utility enterprise or the consumer, and accept grants and contributions from consumers for the construction of water, wastewater and storm drainage facilities;

(6)

Prescribe, revise, and collect in advance or otherwise, from any consumer or any owner or occupant of any real property connected therewith or receiving service therefrom, rates, fees, tolls, and charges or any combination thereof for the services furnished by or the direct or indirect connection with or the use of or any commodity from such water, wastewater, and storm drainage facilities; in anticipation of the collection of the revenues of such water, wastewater, and storm drainage facilities, or joint system, issue revenue bonds to finance in whole or in part the cost of acquisition, construction, reconstruction, improvement, betterment, or extension of the water, wastewater and storm drainage facilities; and issue temporary bonds until permanent bonds and any coupons appertaining thereto have been printed and exchanged for the temporary bonds;

(7)

Pledge to the punctual payment of the bonds and interest thereon all or any part of the revenues of the water, wastewater, and storm drainage facilities including the revenues of improvements, betterments, or extensions thereto thereafter constructed or acquired, as well as the revenues from existing water, wastewater and storm drainage facilities;

(8)

Enter into and perform contracts and agreements with other governmental entities and utility activity enterprises for or concerning the planning, construction, lease, or other acquisition and the financing of water, wastewater and storm drainage facilities and the maintenance and operation thereof;

(9)

Make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this section or elsewhere in state law, the city Charter, or this Code or in the performance of its covenants or duties or in order to secure the payment of its bonds if no encumbrance, mortgage, or other pledge of property, excluding any pledged revenues, of the utility enterprise or city is created thereby, and if no property, other than money, of the utility enterprise or city is liable to be forfeited or taken in payment of the bonds, and if no debt on the credit of the utility enterprise or city is thereby incurred in any manner for any purpose; and

(10)

Issue water, wastewater or storm drainage or joint water, wastewater and storm drainage refunding bonds pursuant to this Code or other applicable law to refund, pay, or discharge all or any part of its outstanding water, wastewater, or storm drainage or joint water and wastewater and storm drainage revenue bonds issued under this article or under any other law, including any interest thereon in arrears or about to become due, or for the purpose of reducing interest costs, effecting a change in any particular year in the principal and interest payable thereon or in the related utility rates to be charged, effecting other economies, or modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds or to any municipal water, wastewater and storm drainage facilities.

(Code 1979, § 39-18)

Sec. 138-29. Revenue bonds.

(a)

In accordance with and through the provisions of this section, the utility enterprise, through its governing body, is authorized to issue bonds or other obligations payable solely from the revenues derived or to be derived from the functions, services, benefits or facilities of such enterprise or from any other available funds of such enterprise. Such bonds or other obligations shall be authorized by ordinance, adopted by the governing body of the utility enterprise in the same manner as other ordinances of the city. Such bonds or other obligations may be issued without voter approval provided that, during the fiscal year of the city preceding the year in which the bonds or other obligations are authorized, the utility enterprise received under ten percent of its annual revenue in grants or, during the current fiscal year of the city, it is reasonably anticipated that such enterprise will receive under ten percent of its revenue in grants. Nothing in this section shall be construed so as to require voter approval where such approval is not otherwise required by the constitution and laws of the state or the city Charter.

(b)

The terms, conditions, and details of the bonds or other obligations and the procedures related thereto shall be set forth in the ordinance authorizing the bonds or other obligations and shall, as nearly as may be practicable, be substantially the same as those provided in C.R.S. tit. 31, art. 35, pt. 4(C.R.S. § 31-35-401 et seq.), relating to water and sewer revenue bonds, except that the purposes for which the bonds are issued shall not be so limited and except that the bonds or other obligations may be sold at public or private sale in accordance with the provisions of the city Charter. Each bond, note, or other obligation issued under this section shall recite in substance that the bond, note, or other obligation, including the interest thereon, is payable from the revenues and other available funds of the utility enterprise pledged for the payment thereof. Notwithstanding any other provision of law to the contrary, such bonds or other obligations may be issued to mature at such times as are authorized by the principal amount thereof, all as shall be determined by the governing body of the utility enterprise. Notwithstanding anything in this section to the contrary, for shortterm notes or other obligations maturing not later than one year after the date of issuance thereof, the governing body of the utility enterprise may authorize enterprise officials to fix principal amounts, maturity dates, interest rates, and purchase prices of any particular issue of such shortterm notes or obligations, subject to such limitations as to maximum term, maximum principal amount outstanding, and maximum net effective interest rates as the governing body of the utility enterprise shall prescribe. Refunding bonds of the utility enterprise shall be issued as provided in C.R.S. tit. 11, art. 56(C.R.S. § 11-56-101 et seq.). The powers provided in this section to issue bonds or other obligations are in addition and supplemental to and not in substitution for the powers conferred by any other law, and the powers provided in this section shall not modify, limit, or affect the powers conferred by any other law either directly or indirectly. Bonds, notes, or other obligations may be issued pursuant to this section without regard to the provisions of any other law. Insofar as the provisions of this section are inconsistent with the provisions of any other laws, the provisions of this section shall control with regard to any bonds lawfully issued pursuant to this section.

(c)

Any pledge of revenue or other funds of the utility enterprise shall be subject to any limitation on future pledges thereof contained in any ordinance of the governing body of the utility enterprise or of the city authorizing the issuance of any outstanding bonds or other obligations of the utility enterprise or the city payable from the same source. Bonds or other obligations separately issued by the city and the utility enterprise but secured by the same revenues or other funds shall be treated as having the same obligor and as being payable in whole or in part from the same source.

(Code 1979, § 39-19; Ord. No. 95-53, exhibit A (§ 39-19), 9-11-95)

Sec. 138-30. Governing body.

For all purposes under the city Charter and this Code, the governing body of the utility enterprise shall be the city council. All provisions of the city Charter and this Code which govern the provision of water, wastewater, and storm drainage services shall be administered and enforced by the utility enterprise.

(Code 1979, § 39-20)

**Secs. 138-31—138-60. Reserved.**

**ARTICLE 3 – CITIZENS’ UTILITIES COMMITTEE**

Sec. 138-61. Created.

There is created a citizens' water advisory committee for the water department to provide counsel, and give suggestions and recommendations to the water department and city council on all phases of budget, departmental work plans, operational needs, strategic planning, long range capital improvements, and financial planning. The city council chair for the water committee shall be an ex-officio member.

(Code 1979, § 8-350; Ord. No. 2003-81, § 2, 11-17-2003; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-62. Qualifications.

The citizens' water advisory committee shall consist of up to a maximum of nine persons appointed by the city council who have the necessary qualifications to review complex, engineering and water financing issues and who shall be registered electors as defined in the Charter.

(Code 1979, § 8-351; Ord. No. 2003-81, § 2, 11-17-2003; Ord. No. 2005-74, § 1, 10-10-2005)

Secs. 138-63—138-65. Reserved.

**Editor's note—**

Ord. No. 2005-12, §§ 146—148, adopted Apr. 11, 2005, repealed §§ 138-63—138-65, which pertained to designated as terms; compensation; organization, respectively and derived from Code 1979, §§ 8-352, 8-353, 8-355; Ord. No. 95-53, exhibit A (§§ 8-352, 8-353, 8-355), adopted Sept. 11, 1995; Ord. No. 2003-81, § 2, adopted Nov. 17, 2003.

Sec. 138-66. Records.

The city manager shall provide such records, information, supplies, clerical help and budget data as is requested by the chairperson of the citizens' water advisory committee, provided that such request shall be reasonable both as to its extent and content so as not to place an undue burden upon the administration of the city. Clerical and technical support to the committee will be provided by the water department; financial and budget support will be provided by the finance department. Administrative staff support to the committee will be provided by both the water department and the finance and administrative services departments.

(Code 1979, § 8-356; Ord. No. 2003-81, § 2, 11-17-2003; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-67. Reports.

(a)

The citizens' water advisory committee shall make at least one preliminary annual report and a final annual report to the city council in a timeframe consistent with the budget process. The committee shall make such other reports to the city council as may be requested of it from time to time when such requests are by a majority of the city council.

(b)

All reports or recommendations made by the citizens' water advisory committee shall be advisory only to the city council and shall be presented by the chairperson of the committee and shall consist of a majority report. A minority report may also be submitted by any member.

(Code 1979, § 8-357; Ord. No. 2003-81, § 2, 11-17-2003; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-68. Rules and regulations of director of water.

It shall be the duty of the director of water to formulate such reasonable rules and regulations not inconsistent with this article, articles V and VI of this chapter and chapter 62, article III, as well as chapter 70, so as to facilitate the proper administration thereof. Such rules and regulations shall cover all subjects enumerated in such parts of this Code.

(Code 1979, § 39-1; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-69. Utilities service extension fees.

(a)

The city manager or his or her designee is empowered to enter into agreements with subdividers for the extension of water and wastewater service structures and facilities into areas not previously served by the utility enterprise. The city manager or his or her designee is further empowered to collect fees for the extension of such structures and facilities from the owners of each lot or parcel of land abutting such extension at the time such lot or parcel of land is connected thereto.

(b)

The service extension fee shall be determined on a case-by-case basis by dividing the costs of the service extension by the number of feet in length that such extension fronts on the abutting lot or parcel of land.

(c)

The city manager or his or her designee may agree to pay all service extension fees collected for any service extension to the subdivider in consideration of the subdivider's agreement to construct and install such extension; provided, however, that the term of any such agreement shall not exceed five years from the date of execution unless a request for an extension is made. Upon request, an extension of an additional two years may be granted by the manager or his or her designee. The request must be in writing, and must delineate the special development circumstances that have necessitated the extension request. Upon the written request of the subdivider, the city manager or his or her designee may further agree to waive the city's right to collect such fees from the owners of any lot or parcel of land abutting the extension during the term of any such agreement.

(d)

For purposes of this section "subdivider" shall mean the owner or developer of a subdivision or any other lot or parcel of land proposed for development.

(Code 1979, § 39-2; Ord. No. 96-36, § 1, 10-7-96)

Sec. 138-70. Payment of fees.

Where water development fees, storm sewer development fees, other utility fees, or any other fees set by annexation agreement are due and payable to the city and have not been paid, the city may withhold the issuance of building permits on the affected property until such payment is made.

(Code 1979, § 39-3)

**Secs. 138-71—138-100. Reserved.**

**ARTICLE 4 – UNDERGROUNDING OF UTILITIES**

Sec. 138-101. 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:

*Emergency situations* includes ruptures and leakage of pipelines, explosions, fires, and similar instances where immediate action is necessary to continue or install service and advance notice of proposed excavation is impracticable under the circumstances.

*Excavation* means any operation in which earth is moved or removed by means of any tools, equipment, or explosives and includes augering, backfilling, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching, and tunneling in a public road, street, alley or right-of-way.

*Operator or owner* means any person, including public utilities, with or without an existing franchise agreement, municipal corporations, political subdivisions, private corporations, or other persons who have buried or intend to bury underground facilities in a public road, street, alley or right-of-way.

*Overhead electric transmission line* means a facility used or intended to be used for the transmission of electric energy at nominal voltages in excess of 46,000 volts.

*Person* means any individual, partnership, association, corporation, or joint venture; the state, any political subdivision of the state, a special district, or any instrumentality or agency of either; or the legal representative of any of them.

*Underground facility* means any item of personal property which is buried or placed below ground for use in connection with the storage or conveyance of water or sewage; electronic, telephonic, or telegraphic communications or cable television; electric energy; or oil, gas, or other substances. An item of personal property, as used in this article, includes but is not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, and attachments thereto.

*Water transmission pipeline* means any system by which a water source is connected to a pump or other transmission conduit 12 inches in diameter or greater that conveys the water to a treatment facility and/or a distribution system.

(Code 1979, § 39-131; Ord. No. 2005-27, § 1, 5-16-2005)

**Cross reference—** Definitions generally, § 1-2.

Sec. 138-102. Legislative declaration.

The city council finds and determines that the installation of underground facilities within the public property of the city or within property which the city has a right of use by dedication or other grant is a matter that affects the public health, safety and welfare in that the design and implementation of public improvements directly affect the activities of citizens who are utilizing the streets, roadways and other public properties of the city. There is, therefore, the necessity of providing a comprehensive system of regulation and inspection of these activities through the enactment of this article. With the exception of sections 138-104, 138-105, 138-113, 138-114 and 138-121, undergrounding activities within publicly dedicated utility easements are not governed by this article.

(Code 1979, § 39-130; Ord. No. 2005-27, § 3, 5-16-2005)

Sec. 138-103. Enforcement.

The public works department, acting by and through its inspection services and contract administration division, shall enforce all of the provisions found in this article.

(Code 1979, § 39-132.1)

Sec. 138-104. Required.

All electric and communication utility lines and services and all street lighting circuits, except as provided in this article, shall be installed underground, and street lighting shall be provided by means of the standard ornamental facilities.

(Code 1979, § 39-132)

Sec. 138-105. Exceptions.

(a)

Exceptions to the undergrounding requirements of section 138-104 are:

(1)

Transformers, switching boxes, gas regulator stations, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to street lighting and underground facilities.

(2)

All facilities reasonably necessary to connect underground facilities to existing or permitted overhead or aboveground facilities.

(3)

Overhead electric transmission.

(4)

Temporary overhead electric and communication lines required for construction. Such lines shall be removed when construction is completed.

(5)

Additions to existing overhead facilities necessary to maintain service. This exception shall not be construed to permit the extension of overhead facilities to a location not presently being served by overhead facilities.

(b)

It shall not be necessary to remove or replace aboveground utility facilities in operation on the effective date of the ordinance from which this article derives.

(Code 1979, § 39-133)

Sec. 138-106. Waiver of requirements.

The city manager or his or her designee may exercise his or her authority to grant a waiver of the undergrounding requirement in this article in the city when he or she determines that such waiver does not conflict with the intent and purpose of this article. The city manager shall develop a specific set of criteria for use in determining whether or not a particular waiver should be granted. The granting or denial of a waiver by the city manager or his or her designee may be appealed to the city council by either a person or operator, as those terms are defined in section 138-101, by filing a written appeal with the city manager within ten days of the city manager's decision.

(Code 1979, § 39-134)

Sec. 138-107. Conditions precedent to installation of facilities; permit; drawings.

No underground facility shall be installed without the person installing the facility having complied with C.R.S. tit 12, art. 25(C.R.S. § 12-25-101 et seq.) and the provisions of article XIV of chapter 22 of this Code. Prior to the issuance of a permit, drawings prepared and signed by an authorized representative of the owner showing the centerline location of all proposed facilities, including their horizontal alignment, plus or minus five-tenths of a foot, shall be submitted to the director of public works or his or her agent. An additional permit may be required when installation is to take place in the right-of-way, as that term is defined in [section 126-131](https://library.municode.com/HTML/10331/level4/PTIICOOR_CH126STSIOTPUPL_ARTVCOWOPURI-W_DIV1GE.html#PTIICOOR_CH126STSIOTPUPL_ARTVCOWOPURI-W_DIV1GE_S126-131DE) of this Code. In the preparation of drawings to be supplied to the city in accordance with this section, the person supplying such drawings shall indicate the location of his or her facilities with reference to the horizontal control factor enumerated in section 138-109.

(Code 1979, § 39-135)

Sec. 138-108. Construction tolerances.

Actual construction of underground facilities will be allowed a horizontal alignment tolerance of plus or minus 1.5 feet from the centerline as shown on the drawings submitted pursuant to section 138-107.

(Code 1979, § 39-136)

Sec. 138-109. Location and alignment control.

Under this article, horizontal control shall be established by reference to physical and recorded evidence, such as section corners, section lines, property corners, property lines, street rights-of-way or recorded easements, and shall be shown on the plans at the beginning and ending of the project and at the point of each change in horizontal alignment. All control distances shall be expressed in feet to a significant factor of five-tenths of a foot.

(Code 1979, § 39-137)

Sec. 138-110. Drawings and records.

The owners and operators shall keep accurate drawings and records of all of their underground facilities within the city which have been installed subsequent to the effective date of the ordinance from which this article derives. Copies of drawings and records showing the location of the installed facility shall be furnished within 30 days after the installation of the facility to the director of public works or his or her agent. The person supplying the drawings shall be responsible for the accuracy of the drawings as tendered to the director of public works or his or her agent.

(Code 1979, § 39-138)

Sec. 138-111. Construction of facilities.

Construction under this article shall be accomplished in accordance with the provisions of the appropriate city permit issued and in full conformance with all data shown on the approved construction drawings.

(Code 1979, § 39-139)

Sec. 138-112. Notice of city-intended improvements to owners or operators.

The city shall give owners and operators of underground facilities reasonable notice of any plans for improvements which are to be constructed by the city within the city's rights-of-way where it is reasonably foreseeable that an existing underground facility will be affected as provided by state law. The notice shall contain the nature and character of the intended improvements, the location of the intended improvements, the extent of the improvements, and the proposed work schedule for the improvement project. The city shall provide notice at a time sufficiently prior to the commencement of the improvement construction, so as to permit the owners and operators of the underground facilities to make appropriate adjustments or alterations to their facilities if, in fact, such adjustments and alterations are necessary to maintain continuity of service and to comply with the requirements of this article.

(Code 1979, § 39-140)

Sec. 138-113. Restoration of property.

After the excavation work associated with the underground facility has been completed in conformity with the appropriate permit, the affected property shall be promptly and fully restored by the permittee to a similar or better condition as existed before the work. The restoration work shall be performed in accordance with all applicable ordinances, rules and regulations of the city. In addition to the guarantees required under section 126-174, all pavement, sidewalk, and curb restoration work shall be guaranteed by the permittee for a period of two years from the date of completion and inspection of the work or of any repair thereto.

(Code 1979, § 39-141; Ord. No. 99-61, § 1, 9-13-99)

Sec. 138-114. Location and maintenance of facilities.

Under this article, all wires, boxes, conduits, cables, lines and other property and facilities of owners and operators shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with existing egress and ingress to abutting private property or the usual and customary trade, traffic and travel upon the streets and public places of the city. Abovegrade structures, such as terminal or junction boxes, shall not be located within the public right-of-way at a point closer than 50 feet from a street intersection as measured from the nearest intersecting flow lines. Standard splice enclosures and pedestals may be placed within 50 feet from a street intersection so long as they do not obstruct the view of vehicular traffic.

(Code 1979, § 39-142)

Sec. 138-115. Construction on public right-of-way or property; excavations.

(a)

All construction and installation work, whenever the work is within or crosses any public rights-of-way or properties, shall be subject to inspection by the city, and the owners and operators shall timely submit to the city, and in no event less than five days prior to any such work, notice of the commencement of any such proposed work within or across any city right-of-way unless an emergency situation exists. Where construction or installation work is to take place within or across a major arterial, as that term is defined in section 126-36, notice shall be given at least ten days prior to such work.

(b)

No underground installation or repair shall be made in any street, alley, or other public right-of-way, as that term is defined in section 126-131, without first having complied with article V of chapter 126. All installation and repair work taking place in a public street shall be done by boring with no open cut on such public street permitted unless an exception is granted by the director of public works or designee, who may grant such an exception only after it has been proved to his or her satisfaction by the applicant that boring is impracticable or that an open cut was necessary for emergency repairs. Where an installation or repair is to take place in an easemented area which is not located within a highway, street, road or alley, the provisions of article V of chapter 126 shall not apply.

(c)

The owners and operators shall not allow any vehicle to be driven or parked atop the landscaped portion of any median and shall not place poles or other equipment where such will interfere with the rights of adjoining property owners, or with any gas or electric facilities, or with any water hydrants or mains. The director of public works or designee may grant exceptions to this subsection (c) if it is proved to his or her satisfaction that driving or parking atop the landscaped portion of a median is, or in case of emergency repairs was, necessary.

(d)

The city acting through its director of public works or his or her agent, may order the delay of the commencement of the excavation work if there does not exist sufficient time to coordinate the excavation work with the necessary procedures and safety requirements which must be performed pursuant to this Code. In addition to giving the required notice to the city, notice shall also be given to other entities which have an underground facility in the area as required by state law. In an emergency situation, the owner or operator may proceed with the necessary work, provided that the city shall be notified immediately or as soon as is practicable.

(Code 1979, § 39-143; Ord. No. 99-61, §§ 2—4, 9-13-99)

Sec. 138-116. Insurance.

(a)

Any owner or operator subject to this article shall maintain a general comprehensive liability insurance policy naming the city as additional named insured, together with its public officials, boards, commissions, agents and employees, in a form satisfactory to the city attorney, protecting the city and all such persons against liability for loss or damage for personal injury, death or property damage, occasioned by the negligent operations by the owners and operators in any public right-of-way or property, in the amount of:

(1)

Five hundred thousand dollars for bodily injury or death to any one person, with the limit however of $1,000,000.00 for bodily injury or death resulting from any one accident; and

(2)

Five hundred thousand dollars for property damage resulting from any one accident.

(b)

The insurance policies mentioned in subsection (a) of this section shall contain an endorsement, stating that the policies are extended to cover the liability assumed by the owners and operators under the terms of this article and shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be cancelled nor the amount of coverage thereof reduced until 30 days after receipt by the city's risk manager, by registered mail, or two copies of a written notice of such intent to cancel or reduce the coverage."

(c)

All policies of insurance or certified copies thereof and written evidence of payment of required premiums shall be filed and maintained with the city's risk manager. A copy of such certificate or policies shall be filed with the city's risk manager prior to the start of any construction or reconstruction.

(d)

Any state-franchised utility may, in lieu of this requirement, self-insure its liability under this article by filing a certificate of proof thereof.

(Code 1979, § 39-144)

Sec. 138-117. Adjustments and alterations to existing facilities.

The owner or operator of an existing underground facility shall, at his or her own expense, when required by the city, protect, support or relocate the existing underground facility when such action is necessary due to construction by or for the city which directly conflicts with an existing underground facility. Such action shall be required of an owner or operator when the public safety, health and welfare requires such action. Reasons for such action shall include but not be limited to the following: street excavation; street construction; change or establishment of street grade; installation, removal or modification of sewers, storm drains, water pipes, or other structures or improvements constructed or maintained by the city.

(Code 1979, § 39-145)

Sec. 138-118. Inspection and permit fees.

Under this article, unless a franchise agreement states that no license or permit fees shall be imposed, the owner or operator shall be subject to the payment of the same inspection fees which are assessed to nonfranchised entities, as established in this Code.

(Code 1979, § 39-146)

Sec. 138-119. Authority to trim foliage within the right-of-way.

The owners and operators of underground facilities shall have the authority to trim foliage which is situated upon or is overhanging on the city's rights-of-way, so as to prevent such foliage from coming in contact with or blocking access to underground facilities. Notification of the proposed clearing and trimming operations by owners and operators shall be to the city's contact person named pursuant to the applicable state statute governing excavation requirements.

(Code 1979, § 39-147)

Sec. 138-120. Responsibility of land developer.

A land developer shall be responsible for complying with the requirements of this article, and he or she shall present evidence prior to final approval of any plat that necessary arrangements have been made with each of the serving utilities, including payment for any construction or installation charges, for the installation of facilities in compliance with this article.

(Code 1979, § 39-148)

Sec. 138-121. Mandatory requirements for the construction and maintenance of water transmission pipelines.

(a)

*Applicability.* No person or entity shall be permitted to construct a water transmission pipeline within the city unless such person or entity shall have first obtained a permit for the performance of such work. Such work shall be performed in conformity with the terms and provisions of this chapter and the permit or permits issued hereunder. Applications shall be submitted for review to the water department. The application shall conform to the submittal requirements established by the water department. The permit shall be approved, denied, or approved with conditions by the director of the water department. If the permit is approved, or approved with conditions, the permit shall become effective 15 days after the decision of the director, unless the matter becomes subject to a the call-up provisions in subsection (c) below, in which case the permit shall not become effective until the expiration of the 30-day period of reconsideration, unless such period of reconsideration is waived by city council.

(b)

*Appeal.* A decision by the director of water may be appealed by the applicant to the city council provided such appeal is filed with the city manager within ten calendar days of the director's decision. Such appeal shall specifically state the grounds for appeal. If an appeal is filed, the city council shall schedule a public hearing on the appeal within 30 calendar days after the date on which the appeal was filed. The burden shall be upon the applicant to demonstrate to the city council that the application conforms to the criteria for approval listed in subsection (d) below. City council shall have the authority to affirm, modify, or overrule the decision of the director of water.

(c)

*Call-up provisions.* Prior to the effective date of an approval by the director of water pursuant to subsection (a) of this section, any member of the city council may move to consider the permit. If the motion passes, the permit shall be brought before the city council as soon as practicable for review and consideration. The burden shall be upon the applicant to demonstrate to the city council that the application conforms to the criteria for approval listed in subsection (d) below. The city council shall have the authority to affirm, modify, or overrule the decision of the director or it may refer the plan back to the director with direction for further information or study. If the application is referred for additional information or study, the director of water shall have 15 days from the date the applicant submits any additional requested information to refer the matter back to the city council for consideration pursuant to this subsection.

(d)

*Criteria for approval.* When considering an application for a water transmission pipeline, the following criteria shall be used to determine whether the permit shall be approved:

(1)

The compatibility of the proposed plan with existing and planned uses on abutting properties, including the need to access/connect with anticipated city utlity facilities;

(2)

The compatibility of the proposed plan with the city code, the city's current structual standards related to the undergrounding of water transmission pipelines, and with other policies and plans adopted by the city council;

(3)

The ability to mitigate adverse and undesirable impacts to the surrounding area, including but not limited to visual impacts, noise, vibrations, water pollution, electromagnetic interference, and other nuisance effects;

(4)

The ability of the applicant to restore and maintain all disturbed areas;

(5)

The ability of the applicant to demonstrate the water transmission pipeline will be located, constructed, installed and maintained in a manner that will have the least impact upon existing and planned development, public improvements and infrastructure including water, wastewater, stormwater, utilities, and streets;

(6)

The compatability of the plan with mandatory minimum depth guidelines in relation to anticiapted "as built" grade of future roadways. The water transmission pipeline owner shall be responsible for preparing and submitting for city approval all "as built" roadway grade(s).

(7)

The ability of the applicant to demonstrate the water transmission pipeline will not preclude the owner of abutting properties from complying with the city Code for development.

(8)

The director of water or city council is authorized to consider the past performance of an applicant in their consideration of any permit.

(9)

All work will be designed by a registered professional engineer in the State of Colorado in accordance with generally accepted industry standards and all construction work will be observed to ensure general conformity to plans and specifications approved as a condition of the permit application. All surevys will be completed by a registered professional surveyor in the State of Colorado. Any deviation from the basis of approval shall be corrected in a timely manner by the applicant at their sole cost and without encumbrance or penalty to the City of Aurora. No work will be undertaken in a manner that causes unreasonable or unnecessary interference in the normal activities of the city including the flow of traffic, its operation of utilities, transportation or other services provided for the benefit of its residents.

(e)

*Conditions of approval.* No permit shall be approved unless the applicant will comply with the conditions listed in this subsection and the approving authority may place conditions on the use necessary to meet the criteria in (d) above. Such conditions shall be enforceable in the same manner as any provisions of this Code.

(1)

*Maintenance.* Any applicant subject to this article shall be required to obtain a 60-foot easement from any grantor of an easement for the purpose of future maintenance.

(2)

*Insurance.* Any applicant subject to this article shall be required to comply and provide for minimum insurance requirements set by the director of water. The owner or operator of a water transmission line shall maintain a commercial general comprehensive liability insurance policy relating to all occurrences and accidents arising from the negligent operations by the owners and operators in any public right-of-way or property. The city, its employees and elected and appointed officials shall be named as additional insureds.

The insurance policies mentioned in subsection (e)(1) of this section shall contain an endorsement, stating that the policies are extended to cover the liability assumed by the owners and operators under the terms of this article and shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be cancelled nor the amount of coverage thereof reduced until 30 days after receipt by the city's risk manager, by registered mail, of two copies of a written notice of such intent to cancel or reduce the coverage."

All policies of insurance or certified copies thereof and written evidence of payment of required premiums shall be filed and maintained with the city's risk manager. A copy of such certificate or policies shall be filed with the city's risk manager prior to the start of any construction or reconstruction.

An applicant may, in lieu of this requirement, self insure its liablitity under this article by filing a certificate of proof thereof.

(3)

*Inspection.* All construction, installation or maintenance work shall be subject to inspection by the city. The owners and operators shall timely submit to the city, and in no event less than five days prior to any such work, notice of the commencement of any such proposed construction or installation work. Where construction or installation work is to take place within or across a major arterial, as defined in section 126-36 of this Code, notice shall be given at least ten days prior to such work.

(f)

*Effective.* The permit shall be effective as specified in subsection (a). If "construction", as defined in section 146-2001 of this Code, of the water transmission line has not commenced within one-year following approval, the permit shall terminate automatically. An applicant may seek a one year extension of the permit by submitting a written extension request at least 30 days prior to the termination of the permit. Such extension may be granted at the discretion of the director of water. Any original conditions of approval shall apply to such extension.

(g)

*Fees.* Prior to or at the time of application, the applicant shall pay the permit application fee as established by the city manager.

(Ord. No. 2005-27, § 2, 5-16-2005; Ord. No. 2005-74, § 1, 10-10-2005)

**Secs. 138-122—138-150. Reserved**

**ARTICLE 5 – WATER SERVICE**

**DIVISION 1**

Sec. 138-151. 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:

*Cross connection* means any physical connection or arrangement of pipes between two otherwise separate piping systems, one of which contains potable water and the other which contains water of unknown or questionable safety, whereby water may flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

*Independent water system* means water supplies developed for use within city limits other than water supplies owned, leased, operated, controlled or otherwise utilized by the city water delivery system. Such water supplies shall include but not be limited to the following: nontributary groundwater supplies drawn from the Arapahoe, Laramie-Fox Hills, Denver, or Dawson aquifers subject to the provisions of C.R.S. § 37-90-137(4).

*Irrigation* shall mean the artificial watering of land to supply moisture for plant growth.

*Landscaped common area* shall mean the landscaped tract or area immediately adjacent to the facilities within a single-family detached or a commercial development, owned or maintained, or both, by the property owner or the responsible caretaker association, that is irrigated from a common irrigation system that is owned or maintained, or both, by the property owner or responsible caretaker association.

*Main* means any pipe, cast iron, steel or other approved material used as a conduit for water in the city water system.

*Nonwater conserving landscaped common area* means that area in which any type of grass and an irrigation system are incorporated in accordance with landscape plans approved by the water and planning departments of the city.

*Service line* means the pipe, line or conduit from the main to an individual house or other structure.

*Water delivery system* means all those systems of water delivery owned and operated and maintained by the city and all other delivery systems which are supplied water by the city.

*Water conserving landscaped common area* means that area in which nongrass vegetation and an irrigation system are incorporated in accordance with landscape plans approved by the water and planning departments of the city.

(Code 1979, § 39-68; Ord. No. 96-66, § 1, 12-16-96)

**Cross reference—** Definitions generally, § 1-2.

Sec. 138-152. Penalty for violations.

Any person violating any provision of this article or the rules and regulations of the water division of the water department promulgated by the director of water shall be subject to the penalties of section 1-13. Upon a second conviction, in addition to the penalties of section 1-13, the municipal court shall order termination of water service to the premises, and the person found guilty shall post a cash bond with the director of water in the sum of $150.00 in order to obtain restoration of the water services, such bond to be conditioned that for any subsequent failure to pay a utility bill when presented, the director of water may forfeit all or any portion of such bond necessary to satisfy such utility billing.

(Code 1979, § 39-75; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-153. Water extension agreement; public improvement permit.

(a)

It shall be unlawful for any person to construct, install, place or attempt to construct, install or place any public water system extension, main, or related subsurface structure or facility within any public street, avenue, alley, or other public way, without first having entered into a water extension agreement with the utility enterprise. The agreement shall provide for the dedication of all water system improvements so constructed or installed to the utility enterprise upon such terms and conditions as the director of water may determine.

(b)

Application for a water extension agreement shall be made to the utility enterprise on forms provided by the director of water. The applicant shall provide all necessary technical information and data regarding the proposed water system improvements as may be required by the director.

(c)

Following execution of the water extension agreement and prior to commencing construction or installation of any water system improvements, each applicant shall procure a public improvement permit from the city. Application for such permit shall be made to the public works department on forms provided by the director of public works.

(d)

At the time of filing the permit application, each applicant shall pay a public improvement permit fee. Such fee shall be promulgated by the director of public works in accordance with the provisions of section 2-587 of this Code. The proceeds of such fee shall be used to defray the costs associated with the inspection and acceptance of public water extensions, mains, and related structures and facilities. In addition to such fee, any person requesting inspection of a water main at any time other than normal city business hours shall reimburse the city for all reasonable costs expended in making such inspection.

(e)

Contractors responsible for construction or installation shall comply with the licensing, permitting, and bonding requirements set forth in Article V of [Chapter 126](https://library.municode.com/HTML/10331/level2/PTIICOOR_CH126STSIOTPUPL.html#PTIICOOR_CH126STSIOTPUPL) of this Code.

(f)

No person may enter into a water extension agreement or be issued a public improvement permit, nor may any contractor be allowed to perform work under any such agreement or permit when such person or contractor has failed to diligently complete and discharge his or her performance and warranty obligations under a prior agreement or permit.

(g)

All fees collected pursuant to this section shall be credited to and deposited in an account of the public works department in the general fund.

(h)

It shall be the responsibility of the applicant or the developer of the subject property to obtain any required permits for section 404 of the Clean Water Act, and all other required state and federal permits for the construction, placement or installation of the proposed facilities.

(Code 1979, § 39-69; Ord. No. 99-84, § 1, 11-29-99; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-154. Use of independent water system; cross connection; use of Dawson Aquifer.

(a)

It shall be unlawful for any person to develop or use for any purpose, including domestic and irrigation uses, within the city limits, any independent water system as defined in this article.

(b)

Notwithstanding any other provisions of this article, those persons who have existing wells, either shallow or deep, or any other valid water rights for use within the city limits, as of the effective date of the ordinance from which this section derives, and those persons who filed notice of lack of consent to the city's use of water under their land, within the period established by the water court, water division no. 1, for filing such notice, shall be allowed to use such wells or water rights. However, the use of such wells or water rights for any purpose shall not permit cross connection between such private service line and a service line carrying water from the public water system as prohibited in subsection (c) of this section.

(c)

It shall be unlawful for any person to have a cross connection between a private service line carrying private well water or other private water with a service line carrying water from the public water system, or in any other manner endangering or contaminating the public water system. If, after notice and informal hearing, a violation of this section is found to exist, the water division of the water department is authorized to forthwith disconnect the cross connection or to terminate water service to the premises until such time as disconnection of the offending cross connection can be accomplished, in addition to any other penalties provided for a violation of this article.

(d)

The following shall apply to the area within one-half mile of section 6, township 5 south, range 65 west of the sixth principal meridian in the city in Arapahoe County:

(1)

It shall be unlawful for any person to drill, develop, or use any wells in the Dawson Aquifer within one-half mile of the exterior boundaries of section 6 until such time as the Environmental Protection Agency's groundwater remedy for the Lowry Landfill superfund site has been implemented consistent with the record of decision and the agency's five-year performance review of the remedy has occurred, as determined by the city council. This prohibition shall not apply to wells that are used for monitoring groundwater quality, extracting groundwater for remediation, or reinjecting treated groundwater.

(2)

After the five-year performance review has occurred and the Environmental Protection Agency reports that the remedy is protective at the compliance boundary, the prohibition against drilling wells in the Dawson Aquifer shall expire, provided that the drilling or use of such wells within one-half mile of the boundaries of section 6 shall only occur with the approval of the city.

(3)

There are adopted by this reference the state primary drinking water regulations, promulgated by the state board of health and found in volume 5 of the Colorado Code of Regulations 1007-3, as amended, which regulations shall apply to water quality at the point of use in the following categories:

a.

Community drinking water systems;

b.

Noncommunity drinking water systems; and

c.

Systems with fewer than 15 service connections or which regularly serve an average of fewer than 25 persons fewer than 60 days of the year and providing well water for ordinary household purposes, the watering of poultry, domestic animals, and livestock on farms and ranches, and the irrigation of home gardens and lawns.

Records of water quality monitoring required by the drinking water regulations shall be kept and shall be made available to the city upon request.

(Code 1979, § 39-70; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-155. Maintenance of water mains and connections; water meter pits.

(a)

It shall be the responsibility of the water department to maintain and repair all water mains and connections located on public rights-of-way or easements.

(b)

It shall be the responsibility of the property owner to repair and maintain water mains and connections from his or her property lines to his or her various structures.

(c)

It shall be the responsibility of the property owner to maintain a safety zone around all water meter pits on his or her property. This safety zone shall include such area above and surrounding all sides of the meter pit lid as would permit ready access to the water meter pit for any legitimate purpose. It is unlawful for any person to place, install or maintain any foliage, landscaping or other object or material within the safety zone which interferes with the ready access of authorized agents or employees of the water department to the water meter pit.

(d)

The director of water is empowered to promulgate such rules and regulations, not inconsistent with this section, as may be reasonably necessary to aid in the enforcement of this section.

(Code 1979, § 39-71; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-156. Use of fire hydrants.

(a)

It shall be unlawful for any person to connect or in any way draw water from any fire hydrant located within the city which is served by city water unless such person has first obtained a permit issued by the director of water or his or her duly authorized representative designating the fire hydrant to be used for a specific period of time.

(b)

Any person who enters a plea of guilty or no contest, or is convicted at trial of violating this section, shall in addition to any jail sentence ordered, be punished by a fine of not less than $500.00 for the first offense of this section within a one-year period, or $1,000.00 for a second or subsequent offense of this section within a one-year period. The court shall have authority to suspend up to half of the fine upon payment of restitution for water used and/or damage to property. In the event no restitution is sought, the court shall have authority to suspend up to half of these fines.

(Code 1979, § 39-72; Ord. No. 2005-58, § 1, 8-8-2005; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-157. Disconnection of fire hydrants.

It shall be unlawful for any person to disconnect or in any way disrupt the flow of water to any fire hydrant located within the city unless such person has first notified the fire department and designated the fire hydrant to be disconnected or disrupted for a specific period of time and advising the fire department when the disconnection is to be made and when water service is restored to the hydrant.

(Code 1979, § 39-73)

Sec. 138-158. Damaging structures or equipment.

It shall be unlawful for any person to maliciously, willfully or intentionally break, damage, destroy, deface or tamper with any structure, appurtenance or equipment which is part of any water main or connection. It shall also be unlawful for any person to tamper with or knowingly render inaccurate any water metering device required under this article.

(Code 1979, § 39-74)

Sec. 138-159. Resale.

Water and wastewater service is furnished by the city for the sole use of the customer at the premises designated in the service application. It shall be unlawful for any person to resell, redistribute, or otherwise dispose of water or sewer service to any other person except as authorized by city Code and/or water department rules and regulations.

(Ord. No. 2007-02, § 1, 2-12-2007)

Sec. 138-160. Sub-billing.

(a)

The following terms, when used in this section, shall have the meaning herein set forth unless the context of their use clearly indicates otherwise:

(1)

Administrative fee: A fee to be paid by the tenant, not to exceed the actual costs incurred by the owner and/or charged by a third-party billing agent, for the calculation and collection of the sub-bill and maintenance of sub-billing records. The cost of installation, maintenance, or repair of infrastructure used for sub-billing may not be included in an administrative fee.

(2)

Dwelling unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(3)

Master-meter: A meter used by Aurora Water to measure, for billing purposes, all water usage of a multifamily dwelling unit, a multiple use facility, or a manufactured home community.

(4)

Multifamily dwelling unit: A building with two or more separate dwelling units.

(5)

Multiple use facility: A commercial or industrial park, office complex, mall, or strip mall with multiple units that are rented or leased at intervals of one month or longer.

(6)

Owner: The person or entity who has established a billing account with the city to receive water, wastewater, and or storm drain service from the city.

(7)

Sub-billing: Water and/or wastewater and/or storm drain service, including monthly service charges, usage charges and surcharges that are billed to an owner by the Aurora Water Department and then allocated, using sub-meters or any other allocation method, and billed to a tenant by the owner or billing agent in addition to the established rent amount.

(8)

Sub-metered service: Water service that is master-metered for the owner and individually metered by the owner at each dwelling unit; wastewater utility service based on sub-metered water utility service; water utility service measured by point-of-use sub-meters when all of the water used in a dwelling unit is measured and totaled; or wastewater utility service based on total water use as measured by point-of-use sub-meters.

(9)

Tenant: A person who owns or is entitled to occupy a dwelling unit in a multifamily dwelling unit, or an individual unit in a multiple use facility or a manufactured home community, to the exclusion of others and, if rent is paid, who is obligated to pay for the occupancy under a written or oral rental agreement.

(b)

Sub-billing by an owner itself, or by an owner through a third party billing agent, shall be prohibited unless the owner complies with all of the following conditions:

(1)

Prior to sub-billing, the owner must provide to the tenant to be sub-billed a detailed written explanation of the method used to allocate the charges to each tenant. This explanation must include the exact formula to be used to calculate the tenant's portion of the bill. This explanation must also disclose whether the tenant will be responsible for any portion of usage in common areas and facilities and landscape, as well as how such portion will be calculated. Such explanation must also disclose the existence and amount of any administrative expense and required deposit.

(2)

Any method of sub-billing must be a pass-through method in that the total of all charges for water and/or wastewater service sub-billed to all units cumulatively shall not exceed the total amount billed by Aurora Water. In the event that the tenants are not responsible for common areas and facilities and/or landscape usage, then the total of all charges for water and/or wastewater service sub-billed to all units cumulatively shall not exceed the total amount billed by Aurora Water minus common areas and facilities and landscape usage. The owner shall not bill tenants for any late charges, interest, other penalties, reconnection fees, or deposits owed by the owner to the city. The owner is responsible to the city for the entire amount billed for service, regardless of the amount collected by sub-billing. The owner may collect an administrative fee, lawful late fees, dishonored check fees, and a deposit provided such fees and deposit are disclosed to the tenant in advance and in writing. Such fees are in addition to the amount billed for water/wastewater service and are therefore not included in the calculation of pass-through maximum billed amounts.

(3)

Charges sub-billed must be itemized separately from each other and separate from any other utility billed by the owner. Combining charges, such as billing more for hot water than for cold water in an effort to recover power costs is prohibited.

(4)

The owner must maintain all necessary records from the preceding twelve month period concerning sub-billing including Aurora Water bills, the allocation formula and/or sub-meter readings if used, and a list with the consumption and/or allocation and the dollar amount billed and collected from each dwelling unit. The owner must also maintain proof of compliance with the notification requirements of subsection (b)(1) of this section. The tenant and/or a representative of the Aurora Water Department shall be allowed to review and copy these records, after redaction of all personally identifiable information, upon request during normal business hours. In the event such records are maintained at a location other than the master-metered property, the owner must make such records available at the master metered property within five business days of such request. There shall be no charge to review the records, but the owner may recover actual expenses for providing copies if requested.

(c)

The provisions of this section are intended to insure a tenant is fully informed about sub-billing and to prevent the resale of Aurora water/wastewater services at a rate higher than that charged by the city. The city will make no determination of whether sub-billing is permitted by, or the specific terms of, a private lease or other agreement between parties other than the city. Nothing in this section shall be construed to prevent an owner from including a tenant's cost of water or wastewater service within the rent set forth in a rental agreement. The resolution of any individual billing dispute arising out of sub-billing is not the responsibility of the city.

(d)

Any owner who sub-bills a tenant, or causes a tenant to be sub-billed, and has failed to comply with any one or more of the above requirements shall be subject to a civil penalty of not more that $500.00 for each sub-bill presented to a tenant, with a maximum of $2500.00 assessed for each calendar month of violations. In the event that the owner is found to be in violation of this section in a second action brought within two years, the maximum penalty amounts shall be doubled, and such violation shall be grounds for discontinuance of water service to the master-metered property.

(e)

This section shall apply to any sub-billing on or after June 1, 2007.

(Ord. No. 2007-02, § 2, 2-12-2007)

Secs. 138-161—138-169. Reserved.

Sec. 138-170. Cross-connection control program.

(a)

*Authority to implement.* In addition to the city's home rule powers, the authority to implement and maintain controls and regulations on cross-connections is contained in the following legislation, regulations, and guidelines:

(1)

Clean Water Act 33, United States Code (U.S.C.) § 1251 et seq. (1977).

(2)

Safe Drinking Water Act; Title XIV - Safety of Public Drinking Water Systems of the Public Health Service Act, codified as 42 U.S.C. § 300 et seq. (1974), Public Law 99-399 Safe Drinking Water Act amendments of 1986.

(3)

National Primary Drinking Water Regulations Authorized Through the Safe Drinking Water Act; 42 U.S.C. § 300G-L.

(4)

Colorado Department of Health Law Title 25-1-114, 25-1-114.1, Colorado Revised Statute (C.R.S).

(5)

Colorado Primary Drinking Water Regulations [Article 12](https://library.municode.com/HTML/10331/level4/PTIICOOR_CH2AD_ARTIVDE_DIV12PUWODE.html#PTIICOOR_CH2AD_ARTIVDE_DIV12PUWODE) (hazardous cross-connections).

(6)

Colorado Cross-Connection Control Manual, latest city adopted edition.

(7)

City of Aurora Public Water Rules And Regulations Regarding Standards And Specifications, Chapter 25, relating to backflow prevention and cross-connection control.

(b)

*Incorporated by reference.* The city incorporates by reference, for use in this section, the City of Aurora Public Water Rules and Regulations Regarding Standards and Specifications, Chapter 25, relating to backflow prevention and cross-connection control.

(c)

*Definitions.* When not clearly otherwise indicated by the context, the following words and phrases in this section shall have the following meanings.

(1)

*Annual due date* means the annual date as established by the director of water when required tests must be completed and proof received by Aurora Water. In those years when the annual due date does not fall on a regular business day, the due date for that year will be the next regular business day.

(2)

*Approved* means accepted by the water department as meeting the applicable specifications set forth in this section, or as suitable for the proposed use.

(3)

*Certified cross-connection control technician* means any person certified to test backflow prevention assemblies as defined in 5 Colorado Code of Regulations (CCR) 1003-1, Article 12 of the Colorado Primary Drinking Water Regulations.

(4)

*Cross-connection* means any physical arrangement whereby a potable water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, tank, plumbing fixture, or other assembly which contains, or may contain, contaminated water, sewage, or other waste, liquid or gas of unknown or unsafe quality, which may be capable of imparting contaminates or pollutants to the potable water supply as a result of changeover assemblies, four-way valve connections, or other assemblies through which, or because of which, backflow could occur.

(5)

*Containment* means the control of cross-connections within a property owner's plumbing system by the installation of approved backflow prevention assemblies or methods on the property owner's service line after the meter and before any branches.

(6)

*Degree of hazard* means an assessment of possible sources of backflow that may contaminate or alter the aesthetic or safe drinking qualities of potable water.

(7)

*Director of water* means the person appointed by the city manager to be the department head of the water department, as well as that person's designee for duties of the director of water under this section.

(8)

*Hazardous connections* means any potential or actual cross-connection that poses a pollution or health hazard as defined in the Colorado Cross-Connection Control Manual to the city's potable water distribution system.

(9)

*Isolation* means the control of cross-connections within the plumbing system of a property owner by isolating individual cross-connections at or near the point of potential contamination or pollution with approved backflow prevention assemblies or methods.

(10)

*Responsible party* means the person billed for water service provided by the city water department, or the owner of the property served by city water if the owner is different than the person billed. In the event that the property owner and the person billed for city water service are different, the owner shall be solely responsible for all obligations and duties of this section.

(d)

*Requirements.*

(1)

All water service connections to the city water system must be installed and maintained in accordance with Public Water Rules and Regulations Regarding Standards and Specifications, Chapter 25, relating to backflow prevention and cross-connection control.

(2)

The installation or maintenance of any unprotected cross connection which may endanger the water supply of the city is prohibited. Any such cross-connection now existing or hereafter installed is hereby declared unlawful and shall be immediately protected by an approved method or eliminated.

(3)

No provision of this section exempts a responsible party from the cross-connection control requirements for water distribution systems as otherwise required by law.

(e)

*Inspections, testing, and repair.*

(1)

It is the responsibility of the responsible party to have operational tests conducted on any required backflow prevention assembly upon installation and at least annually thereafter. It is also the responsibility of the responsible party to ensure that proof of such test is provided to the water department no later than the annual due date. These tests shall be made at the expense of the responsible party and must be performed by a certified cross-connection control technician.

(2)

Where the director of water deems necessary, the director may require operational tests at more frequent intervals. The cost for any test shall be at the responsible party's expense. A certified cross-connection control technician shall perform all tests.

(3)

Any required backflow prevention assembly shall be repaired or replaced at the expense of the responsible party whenever the assembly is found to be malfunctioning, defective, or is not approved by the city for the degree of hazard.

(4)

Records of all tests, repairs or replacements shall be kept by the certified cross-connection control technician and the responsible party, and a copy of all such records shall be sent to the water department within five working days of performance of such work.

(5)

The director of water retains the right, at any time, to test or inspect the installation and operation of any containment or isolation assembly, or any device, used for compliance with this section.

(f)

*Right of entry.* The director of water designee assigned to inspect premises relative to possible hazards shall carry proper credentials of his or her office. Upon exhibit of these credentials, said person shall have the right of entry to inspect any and all buildings and premises for cross-connections and to conduct a degree of hazard assessment. If such entry is refused, the city shall have recourse to every remedy provided by law to secure entry. This right of entry shall be a condition of continuation of water service in order to protect the city's potable water distribution system and the health, safety and welfare of the community.

(g)

*Compliance.*

(1)

Failure of the responsible party to comply with the requirements of subsection (e) of this section shall be subject to the following actions and penalties:

a.

Upon failure to comply, a notice of reminder will be mailed to the party billed for water service. In the event that the property owner is different than the party billed for water service, a notice of reminder will also be mailed to the listed owner, at the address on file with the applicable county tax assessor's office. The responsible party will have 30 calendar days from the annual due date to comply.

b.

In the event that the responsible party does not comply within 30 days of the annual due date, first violation notice will be mailed to the party billed for water service as well as the property owner, if different from the billed party. If the responsible party is the person billed for water service, a $1,000.00 charge will be added to the water bill for the property as a civil penalty. If the responsible party is not the same as the person billed for water service, a bill reflecting the $1,000.00 civil penalty will be mailed to the responsible party. If the responsible party provides proof of compliance to the water department within 60 days of the annual due date, $600.00 of this charge will be waived.

c.

In the event that the responsible party does not comply within 60 days of the annual due date, a second violation notice will be mailed to the party billed for water service as well as the property owner, if different from the billed party. If the responsible party is the person billed for water service, a $2,000.00 charge will be added to the water bill for the property as a civil penalty. If the responsible party is not the same as the person billed for water service, a bill reflecting the $2,000.00 civil penalty will be mailed to the responsible party.

d.

In the event that the responsible party does not comply within 90 days of the annual due date, notice of termination of service will be left at the property and mailed to the party billed for water service and the property owner, if different from the billed party. Water service may be terminated seven days after notice and may remain terminated until such time as the responsible party complies with the requirements of this section.

e.

Any penalty imposed pursuant to this section may be appealed to the director of water pursuant to the appeal procedure set forth in section 138-226.

(2)

Service of water to any premises may also be discontinued by the director of water if unprotected cross-connections exist on the premises, if any defect is found in an installed backflow prevention assembly, if a backflow prevention assembly has been removed or bypassed or does not adequately protect the public health. Service shall not be restored until such conditions or defects are corrected to the satisfaction of the director.

(3)

Discontinuance of service may be summary, immediate and without written notice whenever, in the judgment of the director of water, such action is necessary to protect the city's potable water supply or the safety of the city's potable water distribution system.

(4)

Any violation of this section, with the exception of subsection (e), shall be punishable pursuant to [section 138-152](https://library.municode.com/HTML/10331/level4/PTIICOOR_CH138UT_ARTVWASE_DIV1GE.html#PTIICOOR_CH138UT_ARTVWASE_DIV1GE_S138-152PEVI) of this Code. Each and every day during any portion of which any violation is committed, continued or permitted by any person shall constitute a separate and distinct chargeable offense.

(Ord. No. 2005-74, § 1, 10-10-2005; Ord. No. 2006-58, § 1, 10-10-2006)

 **Secs. 138-171—138-185. Reserved**

**DIVISION 2**

Sec. 138-186. Definitions.

The following words and phrases, when used in this division, shall have the following meanings ascribed to them:

*Director* means the director of water or his or her designee.

*Dwelling, single-family attached or townhouse* shall have the same meaning as in chapter 146, article 20.

*Dwelling, single-family detached* shall have the same meaning as in chapter 146, article 20.

*Dwelling, two-family* shall have the same meaning as in chapter 146, article 20.

*Front yard* shall have the same meaning as in chapter 146, article 20.

*Lawn, turf, or sodded areas* means any area that is primarily devoted to the cultivation of any species of grass and is to be irrigated by water delivered through the water delivery system.

*Lot* shall have the same meaning as in chapter 146, article 20.

*Rear yard* shall have the same meaning as in chapter 146, article 20.

(Code 1979, § 39-79; Ord. No. 2000-132, § 1, 12-11-2000; Ord. No. 2003-83, § 1, 12-8-2003; Ord. No. 2005-74, § 1, 10-10-2005)

**Cross reference—** Definitions generally, § 1-2.

Sec. 138-187. Water conservation requirements; exemptions.

(a)

*Water conservation requirements.*

(1)

*Lawn permits.*

a.

It shall be unlawful for any property owner or occupant or other person to install or enlarge any lawn, turf, or sodded area on any single-family detached, two-family, and single-family attached duplex lots without a valid lawn permit issued by the city and displayed on the lot so as to be visible from the public street.

b.

Applications for lawn permits shall be submitted to the water department using a form supplied by the city, and shall include the name of the applicant; the address of the lot; the lot size in square feet; the square footage to be devoted to lawn, turf, or sod; a site plan or drawing of the lot; and satisfactory evidence of soil preparation, such as a receipt for the recent purchase of organic matter.

c.

The water department shall review each lawn permit application and inspect soil amendment and soil preparation to determine whether the application satisfies the requirements of this section. If such requirements are deemed satisfied, a permit shall be issued for the lot named in the application.

d.

There shall be an administrative fee for a lawn permit as approved pursuant to the City of Aurora administrative fees for the water department.

(2)

*Lawn, turf, and sodded area limitations for front and rear yard landscaping.* Lawn, turf, and sodded areas shall be subject to the requirements described in chapter 146, article 14.

(3)

*Soil preparation.* All soils upon which any lawn, turf, or sodded area is to be installed or enlarged must be properly amended with organic matter. A minimum of four cubic yards of organic matter per each 1,000 square feet of soil must be incorporated to a depth of at least six inches by tilling, discing, or other suitable method. Examples of acceptable organic matter include compost and aged manure. Mountain peat and inorganic materials including but not limited to sand, gypsum, and lime, are not acceptable soil amendments.

(4)

*Large lots.* Rain shut-off devices or soil moisture sensors shall be utilized in the installation or enlargement of any lawn, turf, or sodded area that is two or more acres in size. The use of water shall be conserved on such lots in accordance with a water budget that is based upon evapotranspiration calculations derived from a formula that shall be set forth in the applicable lawn permit.

(b)

*Exemptions and special requirements.*

(1)

*Other properties.* Landscaping for property other than single-family detached, two-family, and single-family attached duplex lots shall comply with all applicable city requirements and with any applicable general or preliminary development plan, site plan, or redevelopment plan as required in chapter 146, article 14.

(2)

*Declared drought emergency.* At such time as the city council may declare a drought emergency the issuance of lawn permits can be temporarily suspended by the director of water.

(c)

*Enforcement and penalty.*

(1)

There shall exist a rebuttable presumption that the person who is billed for water service to a property is responsible for compliance with the requirements of this section with respect to such property. Said presumption shall not relieve any property owner from such responsibility.

(2)

The director or his or her designee is hereby authorized to enforce this section, and may enter upon private property for the purpose of inspecting such property whenever he or she reasonably believes that a violation concerning such property is occurring or has occurred, or for the purpose of issuing a summons and complaint, provided that he or she shall first present identification to the occupant and request entry, explaining the reason or reasons therefor.

(3)

Each violation of this section shall be a violation of section 138-190, waste of water.

(Code 1979, § 39-80; Ord. No. 2000-132, § 2, 12-11-2000; Ord. No. 2003-83, § 2, 12-8-2003; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-188. Rules and regulations.

It shall be the duty of the director of water to promulgate such reasonable rules and regulations not inconsistent with this division as may be necessary to promote and facilitate maximum utilization of water and discourage and prohibit waste of water. Such rules and regulations will provide emergency procedures for situations where conditions affecting the water delivery system will require immediate shutdown or immediate curtailment of certain water uses. Such rules and regulations shall have full force and effect when published pursuant to the terms of sections 2-3 and [138-189](https://library.municode.com/HTML/10331/level4/PTIICOOR_CH138UT_ARTVWASE_DIV2WASH.html#PTIICOOR_CH138UT_ARTVWASE_DIV2WASH_S138-189PRDUWASH) of this Code.

(Code 1979, § 39-76; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-189. Procedure during water shortage.

(a)

Upon a finding by the city council or, in the face of imminent danger, the city manager, that the city is facing a shortage in its supply of water, or facing a problematic situation in regard to its capacity to supply water, the council or, in the proper circumstance, the city manager shall have the authority to institute rules and regulations affecting the uses and times of use or even to prohibit, if necessary, all nondomestic uses of water served by the water delivery system.

(b)

Such rules and regulations promulgated as a result of city council action under subsection (a) of this section shall have full force and effect and shall be enforceable when published pursuant to the terms of section 2-3 of this Code and shall continue in effect until such time as the water shortage or delivery system problem is found by council to have ended and notice thereof has been published pursuant to section 2-3 of this Code.

(c)

Such rules and regulations promulgated as a result of the city manager's action under subsection (a) of this section, when published pursuant to the terms of section 2-3 of this Code, shall have full force and effect and shall be enforceable until such time as the city council, meeting in regular session, advises the city manager as to what revisions, if any, it might wish to make to the rules and regulations. Any such revisions shall take effect and shall be enforceable when published pursuant to section 2-3 of this Code. If the council does not advise the manager to revise the rules and regulations, those rules and regulations promulgated by the city manager shall remain in effect and shall be enforceable. All such rules and regulations, and revisions thereto, promulgated by the city manager shall continue to remain in effect until such time as the water shortage or delivery system problem is found by the council to have ended and notice thereof has been published pursuant to section 2-3 of this Code.

(d)

Such rules and regulations shall apply to all areas served by the water delivery system.

(Code 1979, § 39-77)

Sec. 138-190. Waste of water.

(a)

*Waste of water prohibited.* Waste of water shall be defined as noncompliance with the city's water management plan as defined in section 138-223(b). Notwithstanding the enforcement provisions set forth in subsection (b) of this section, the director may order the installation of a flow restricter or the shut off of water service to a property if the director reasonably finds that an extreme waste of water is occurring on the premises.

(b)

*Enforcement.* The director is hereby authorized to enforce this section. The person billed for water service to a property, whether owner or occupant, shall be responsible for compliance with subsection (a) of this section and shall be subject to the following actions and penalties:

(1)

Upon a first violation, the person billed will be issued a warning.

(2)

Upon any further violations at the same property within a 12-month period, from the date of the warning notice, the person billed will be issued a written violation and the following penalty will be added to the water bill for the property as a civil penalty.

|  |  |  |
| --- | --- | --- |
|  | 2nd Violation  | All AdditionalViolations |
| Single-Family |  |  |
| All (5/8" - 1") | $250.00 | $500.00 |
| Non Single-Family |  |  |
| 5/8" | 250.00 | 500.00 |
| ¾" | 300.00 | 600.00 |
| 1" | 400.00 | 800.00 |
| 1 ½" | 600.00 | 1,200.00 |
| Large Commercial |  |  |
| 2" | 800.00 | 1,600.00 |
| 3" | 1,200.00 | 2,400.00 |
| 4" | 1,600.00 | 3,200.00 |
| 6" | 2,400.00 | 4,800.00 |
| 8" | 3,200.00 | 6,400.00 |
| Irrigation Only |  |  |
| 2" | 1,000.00 | 2,000.00 |
| 3" | 1,500.00 | 3,000.00 |
| 4" | 2,000.00 | 4,000.00 |
| 6" | 3,000.00 | 6,000.00 |
| 8" | 4,000.00 | 8,000.00 |

(3)

Any penalty imposed pursuant to this section may be appealed to the director of water pursuant to the appeal procedure set forth in section 138-226.

(4)

Upon any notice(s) of violation of this section, a copy of such notice(s) shall also be mailed to the owner(s) of the real property served, if the owner(s) address differs from the subject property address.

(Code 1979, § 39-78; Ord. No. 2000-132, § 3, 12-11-2000; Ord. No. 2002-29, § 1, 6-3-2002; Ord. No. 2003-08, § 1, 3-24-2003; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-191. Car washes.

(a)

The following terms shall have the meaning herein set forth unless the context of their use clearly indicates otherwise:

(1)

*Car wash installation* as used herein shall mean any area or business using in-bay automatic or conveyor equipment for cleaning and washing motor vehicles, whether as a part of another business operation or as a stand alone operation, of any type, on a commercial basis and shall include fleet and municipal in-bay automatic and conveyor car wash facilities.

(2)

*Conveyor car wash installation* shall mean a system where the car moves through the facility by use of a conveyor belt or other mechanical means while being cleaned.

(3)

*In-bay car wash installation* shall mean a system where the car remains stationary while a machine moves back and forth over the vehicle to clean it.

(4)

*Self-service car wash installation* shall mean a system where the customer washes the car using a wand that dispenses water and cleanser.

(5)

*Operator* shall mean the person, business, or municipal entity responsible for the operation of the car wash installation, whether as owner or lessee of said car wash installation, as indicated in the business license, sales tax or property records of Aurora.

(b)

All in-bay automatic and conveyor car washes that obtain a certificate of occupancy or a temporary certificate of occupancy after February 1, 2004 that use water supplied by the Aurora Water System shall be required to be equipped with, and shall maintain in operation, a water recycling system that will recycle not less than 50 percent of the water being used by such car wash installation.

(c)

Any operator of an in-bay automatic and/or conveyor car wash installation that has obtained a certificate of occupancy or a temporary certificate of occupancy prior to January 1, 2004, shall be required to install, and maintain in operation, a water recycling system that will recycle not less than 50 percent of the water supplied by the Aurora Water System by such car wash installation as a condition of any permit granted by Aurora to:

(1)

Enlarge the water tap, meter or service line in any such car wash installation, or

(2)

Demolish, destroy or remove and then replace more than 50 percent of the gross square footage of the floor area of the car wash installation building as it exists on January 1, 2004, except for the purpose of replacing under floor heating equipment, or

(3)

Expand the gross square footage of the floor area of the car wash installation building by more than 50 percent of the square footage of the car wash installation building as it exists on February 1, 2004.

(d)

All self-service car wash installations shall be exempt from the provisions of this section.

(e)

Zoning requirements. Notwithstanding the above provisions, all regulations regarding car washes specified in chapter 146 shall apply.

(Ord. No. 2003-83, § 1, 12-15-2003)

**Editor's note—**

Formerly, Ord. No. 2000-132, § 4, adopted Dec. 12, 2000, repealed [§ 138-191](https://library.municode.com/HTML/10331/level4/PTIICOOR_CH138UT_ARTVWASE_DIV2WASH.html#PTIICOOR_CH138UT_ARTVWASE_DIV2WASH_S138-191CAWA) which pertained to regulation of areas devoted to lawn, turf or sodded areas and derived from Code 1979, § 39-81. Sections [138-192](https://library.municode.com/HTML/10331/level4/PTIICOOR_CH138UT_ARTVWASE_DIV2WASH.html#PTIICOOR_CH138UT_ARTVWASE_DIV2WASH_S138-192IRST)—138-220 were nonsubstantive.

Sec. 138-192. Irrigation standards.

(a)

*Purpose.* To conserve water resources and promote the use of reclaimed water sources by establishing requirements for design, installation and maintenance of automatic irrigation systems.

(b)

*Applicability.* These standards shall apply to:

(1)

New development. All new development where automatic underground irrigation of landscape areas is required per Chapter 146, Article 14, (Landscaping). Including all common area landscape tracts, tree lawns, private common open space and private parks.

a.

Individual residential lots. The individual lots of single-family detached homes, two-family homes, and single-family attached duplex homes shall be required to comply only with equipment requirements and the final construction observation requirements of this section.

(2)

Replacement of existing irrigation systems. Existing irrigation systems being replaced, modified or expanded pursuant to Chapter 146.

Existing irrigation systems that are operating in an efficient manner and are not found to be wasting water as found in section 138-190 of the City of Aurora Code are exempt from these standards when performing routine maintenance, component up-grades, and repairs.

(c)

*Landscape plans.* All landscape plans required by Chapter 146 Zoning Code, Article 14, (Landscaping) shall carry a notation requiring compliance with these standards.

(d)

*Irrigation design plan.* Prior to the installation of the irrigation system the water department shall approve a design plan prepared by a designer that complies with the system requirements specified in this section. An electronic DWG file in AUTOCAD is preferable. The irrigation design plan shall accurately and clearly identify:

•

Property boundaries

•

Locations, model and size of all components of the irrigation system

•

Static water pressure at the point of connection

•

Flow rate, zone number, application rate (inches per hour), and design operating pressure for each zone or station on the controller

•

Backflow preventer

•

The square footage of turf and planting beds on the plans

•

Site water requirements

Irrigation designs for sites with greater than 1½ inch meters must also accurately and clearly identify:

•

Pressure loss worksheet

•

Calculation of water usage in gallons for the year

•

Irrigation schedule

Submittal of irrigation plans shall be concurrent with the submittal of civil plans or if no civil plans are required with application for a building permit.

The design of irrigation systems shall be based on approved landscape plans. Amendments to landscape plans shall require amendments to the irrigation plan(s).

(e)

*Designer qualifications.* The irrigation designer shall be a certified irrigation designer (commercial) as regulated by the irrigation association, or a person with a minimum of five years of demonstrated experience designing irrigation systems. The designer shall upon request produce evidence of their experience that may include references, letters of recommendation, portfolio of work, photographs, and employment records. By demonstrated experience persons shall substantiate having designed a minimum of three projects of comparable size and complexity.

(f)

*System requirements.*

(1)

Flow requirement. The system shall be designed so it is capable of providing sufficient water for adequate plant growth during periods of peak demand when evapo-transpiration (ET) is highest. Peak demand shall be based on 1.8 inches per week for turf and 1.0 inch per week for planting beds. Water requirements for each site must be determined prior to designing the system in order to size the system for adequate capacity.

(2)

Run times. Watering shall occur in accordance with the Aurora Water Management Plan approved by city council.

(3)

Pressure control. In order to control pressure and protect the system from damage, pressure-reducing valves and/or master valves shall be located immediately downstream of the backflow preventer if static pressure is 15 PSI above the system design pressure. System design pressure is the required operating pressure at the head plus total system pressure losses, including tap, service and meter.

Pressure at all heads shall be within ten percent of the system design operating pressure. (Example: a head designed for 30.0 PSI shall operate within the 27.0 to 33.0 PSI range.) This shall be accomplished by using pressure-reducing valves (not flow control valves or flow restriction devices) installed under or in the base/stem of the head. A combination pressure-reducing and control valve can be used to control the pressure within a zone.

(4)

Sprinkler head layout. Head spacing shall not exceed 50 percent of the diameter of each head's effective coverage. Part circle heads must be used around the entire turf/bed perimeter to avoid overthrow onto buildings, asphalt, concrete, etc., and walks with planting on one side only. Walks of five feet or less with planting on each side may be sprayed over.

Radius reduction at the head shall not exceed 25 percent of the designed maximum arc as indicated in manufacturers' catalog and on the plans. If there are coverage problems in unique areas, use part circle "backup heads" where there is not enough space for another row of full circle heads.

a.

Slopes in excess of a three-to-one ratio. Heads placed at the bottom of a slope need to be valved separately. Mid-point on the slope shall need a moderate amount of water and therefore these heads shall also have their own zone. Heads placed on the top of the slope must be valved separately, as they shall water for the longest period of time because this section will have no run-off from above and is exposed to more sun and wind.

Lateral lines and heads on slopes shall be installed along the contour rather than up and down the slopes.

b.

Narrow strips, parking lot islands, tree lawns, and medians. If the area is less than 15 feet wide use pop-up spray heads with a nozzle radius that will not exceed the width of the strip. The installation of subsurface drip irrigation systems in these areas is encouraged.

c.

Zone control. Irrigated areas shall be divided into zones that have the same water requirements.

The designer shall identify all depressions, drainage ways, and stormwater detention, retention, and water quality ponds, and zone them separately from adjacent higher areas. Heads and valves shall be installed adjacent to and outside of these low areas.

All heads within a zone must have matched application rates. Heads that have different application rates shall be zoned separately. Parking lot medians and islands that are surrounded by pavement shall be located in separate zones from other landscape areas.

(5)

Hydraulics.

a.

Pressure loss table. A pressure loss table shall be included on the irrigation plan. The table shall include information for zones with the highest flow rate that are located the greatest distance from the source. Use 70 percent of the maximum safe water flow when calculating pressure losses for all irrigation systems. The table shall include the following information:

•

Valve number and flow rate

•

Available static water pressure

•

Loss or gain due to elevation

•

Detailed list of various component pressure losses and velocities

•

The operating pressure requirements

•

Project location and date

•

Water service and meter

The following table shall be used when calculating pressure losses for meters and copper pipe:

Average Flow and Pressure Losses for
Displacement Type Meters and "K" Copper Pipe

|  |  |  |  |
| --- | --- | --- | --- |
| Size in. | Maximum CapacityFlow Criteria | 70% of Max | K Copper (C=130)Service Line Loss |
| GPM | PSI loss | GPM | PSI | PSI/100' | PSI/50' |
| ¾" |  30 | 7.3 |  21 | 5.11 | 59.7 | 29.9 |
| 1" |  50 | 6.7 |  35 | 4.69 | 41.2 | 20.6 |
| 1-1/2" | 100 | 7.3 |  70 | 5.11 | 21.5 | 10.7 |
| 2" | 160 | 8.6 | 112 | 6.02 | 13.2 | 6.6 |
| 3" | 300 | 9.3 | 210 | 6.51 |  6.1 | 3.1 |

b.

Tap sizing. Required minimum meter size is based on the total irrigated turf area as provided in Table A and Table B.

Table A. Required minimum meter size.

|  |  |
| --- | --- |
| Turf Area in Square Feet | Meter Size |
| Up to 35,000 | ¾" |
| Up to 60,000 | 1" |
| Up to 120,000 | 1.5" |
| Up to 190,000 | 2" |
| Up to 360,000 | 3" |

Shrub beds are not included in the above sizing calculations because they are usually irrigated by low volume subsurface drip systems. If the shrub bed area is more than 15 percent of the turf area, a larger tap may be necessary.

Table B. Required minimum meter size for large
open spaces with rotor heads and water use @ 20".

|  |  |
| --- | --- |
| Turf area square feet | Meter size |
| Up to 140,000 | 1.5" |
| Up to 220,000 | 2" |
| Up to 440,000 | 3" |

c.

Backflow preventer and specialty valves. Maximum velocity for water flow through backflow preventers shall not exceed 7.5 FPS.

When using pressure-reducing valves, the sizing of the backflow preventer and specialty valve shall be based on the devices flow capacity at the reduced pressure level.

(6)

Sizing. Mainline velocities shall not exceed five FPS. lateral line velocities shall not exceed six FPS.

(7)

Pressure difference. Pressure difference between any two heads in the zone shall not exceed ten percent of the highest pressure within the zone.

(8)

Equipment selection.

a.

Spray heads. Pop-up spray heads for turf areas shall have a minimum pop-up height of four inches. A six-inch pop-up height shall be used adjacent to streets. The 12 inch pop-up height shall be used in ground cover and flowerbeds. Heads shall seal in the operating position at ten PSI or less, and the water used in the flush mode shall not exceed .05 GPM. Heads shall have a ratcheting feature for adjusting the direction of spray.

Pop-up spray heads shall have built in check valves and a pressure-regulating device (set at 30 PSI) installed in the base of the stem, a check valve installed in the base of the body, and under slotted plastic nozzles, with matched precipitation rate nozzles.

b.

Rotary heads. Rotary heads shall be internally driven, have a closed-case rotor with wiper seals that is spring retracted. The pop-up stem surface diameter shall be less than two inches, and have a minimum pop-up height of four inches. All heads shall have check valves built into the bottom of the body. Small radius rotor heads shall be used for areas that range from 20 feet to 30 feet wide.

c.

Automatic rain shut-off devices. All systems shall be equipped with an automatic rain shut-off device.

d.

Automatic controllers. The following features shall be incorporated into the controller:

•

Multiple programs/start times

•

Water budgeting and/or spray and soak features

•

Memory retention

•

Battery backup

•

Flexible day programming for any intervals

e.

Drip irrigation. Drip irrigation is defined as subsurface low volume systems that apply water in gallons per hour (GPH) through either calibrated pressure compensating emitters, bubblers, mico-sprays, and/or micro-spray pop-ups directly to a plant's root system or to a planted area.

Self-flushing, pressure-compensating subsurface drip irrigation is recommended in all planting beds that are mulched or in narrow turf strips where spray heads are not practical. All subsurface drip shall be installed in the soil, not on the surface.

As with sprinkler irrigation, drip irrigation shall be zoned for varying plant needs, slopes, and exposures.

f.

Backflow prevention devices. All irrigation systems shall be equipped with an appropriate backflow prevention device.

(9)

Performance standards for water uses. Each underground automatic irrigation system shall be designed to deliver a maximum budget of 28 inches (17.46 gallons) of water per square foot of turf and 15 inches (9.35 gallons) of water per square foot of plant bed per growing season. Natural precipitation is not included in this total.

Total gallons budgeted per 1,000 square feet of turf for one growing season may be calculated as:

1000 x 28" x 0.623 gal/inch = 17,444 gallons per growing season.

Total gallons budgeted per 1,000 square feet of plant bed per growing season may be calculated as:

1,000 x 15" x 0.623 gal/inch = 9,345 gallons per growing season.

Table C shows the annual budgeted water in gallons for all turf areas and plant beds. The completed table shall be shown on the irrigation plan.

Table C. Calculated annual irrigation water use

|  |  |  |  |
| --- | --- | --- | --- |
| Area in turf (SF) | Area in turf x 28 in. x 0.623 = gallons applied | Area in plant beds (SF) | Area in plant beds x 15 in. x 0.623 = gallons applied |
| Total annual gallons applied turf + plant beds | \_\_\_\_\_\_\_\_\_\_\_\_Total annual gallons |

(10)

Irrigation schedule. An annual irrigation program with monthly irrigation schedules shall be shown on the irrigation plans. The irrigation schedule shall show the following information:

•

Runtime

•

Number of cycles per day

•

Frequency of irrigation for each zone.

The irrigation system operator shall monitor and adjust automatic sprinklers based on the current month and available moisture. Information on efficient watering shall be available from the water department office of water conservation.

(11)

Final construction observation. All fees for irrigation meters must be paid in full at time of system construction.

Prior to issuance of a permanent certificate of occupancy the irrigation system must be inspected by the water department.

Prior to inspection, the site must be free of construction debris so that components of the system can be observed. Contact information for the irrigation system installer must also be provided. Operating manuals and a recommended watering schedule must be available.

(12)

Maintenance and operation requirements. A seasonal maintenance schedule beginning on April 1 through October 1 shall be shown on the irrigation plan to establish procedures for optimum irrigation efficiency and preventive maintenance practices that will conserve water resources. The maintenance schedule should include the following items:

•

Check heads for coverage and leakage

•

Reprogram controllers monthly or more often if necessary according to the seasonal needs

•

Verify that the water supply and pressure are as stated in the design

•

Inspect the backflow prevention device to determine if it is working correctly

•

Periodically verify that sensors in the irrigation system are working properly

(13)

Landscape irrigation audits. It is recommended that the operators of all irrigation systems except as provided in subsection (b), applicability, shall perform a landscape irrigation audit every five years.

Audits may be required whenever it is determined by the director of water or his/her designee that any of the following conditions apply:

•

Violations for wasting water.

•

Reported or suspected noncompliance with these standards.

(g)

*Requirements for reclaimed domestic wastewater.* All irrigation systems installed on a site must connect to the reclaimed water system where reclaimed domestic wastewater is available meeting the requirements of the Colorado Department of Health and Environment (CDPHE), "Reclaimed Domestic Wastewater Control Regulations" and the following guidelines.

(1)

Design requirments. Design requirements for irrigation systems that will connect to reclaimed domestic wastewater shall meet the following criteria:

a.

Site water containment. Reclaimed domestic wastewater shall be confined to the authorized use area, strictly minimizing runoff and/or ponding of the water. Zone slopes and microclimates to strictly minimize runoff and/or ponding of reclaimed domestic wastewater. Direct and windblown irrigation water spray shall be confined to the site. Precautions shall be taken to ensure that reclaimed domestic wastewater will not be sprayed on any facility or area not designated for application.

b.

Pipe marking. Identification shall be one of the following:

•

The warning "CAUTION: RECLAIMED WATER - DO NOT DRINK" embossed or stenciled on the pipe at five-foot intervals.

•

Purple plastic marking tape the width of the pipe with the warning "CAUTION: RECLAIMED WATER - DO NOT DRINK", and taped to the pipe every ten feet.

•

Install purple-colored pipe.

c.

Outlets. All sprinkler heads, quick coupler valves, and other outlets shall have purple-colored tops or rubber covers. Permanent hose outlets are not allowed.

d.

Valve boxes. All valve boxes used in the irrigation system shall have purple-colored valve box lids.

e.

Irrigation controllers. Irrigation controllers shall be labeled inside and out with "CAUTION: RECLAIMED WATER - DO NOT DRINK". A laminated reduced drawing of the irrigation system shall be kept in the controller cabinet.

f.

Backflow prevention. An approved reduced-pressure principle backflow prevention device or an air gap shall be provided at all potable water service connections to reclaimed domestic wastewater use areas.

g.

Warning signs. Notification by clearly visible signs shall be provided to inform the public that reclaimed domestic wastewater is being used for irrigation and is not safe for drinking. The notification shall include posting of signs of sufficient size to be clearly read in all application areas and around impoundments with the following wording: ATTENTION: RECLAIMED DOMESTIC WASTEWATER - DO NOT DRINK

Signs should be in the predominant language(s) spoken in the area at the site.

These requirements are based on Colorado Department of Public Health and Environment Regulation 84, Reclaimed Domestic Wastewater Control Regulation and American Water Works Association Manual M24, Dual Water Systems.

(h)

*Enforcement and penalty.* Any violation of this section shall be considered a waste of water as defined in section 138-190 and the enforcement provisions of section 138-190 shall apply.

Upon the issuance of any violation the system shall be adjusted within three days of notification for commercial properties and within seven days of notification for residential properties whenever irrigation water falls or runs onto hard surfaces such as sidewalks, streets or driveways. Breakdowns or failures of the irrigation system shall be repaired within three days of notification for commercial properties and within seven days of notification for residential properties to avoid unnecessary wasting of water. Any observed or reported wasting of water may result in penalties as described by section 138-190 of the City of Aurora Code.

(Ord. No. 2004-75, § 1, 12-6-2004; Ord. No. 2005-74, § 1, 10-10-2005)

Secs. 138-193—138-209. Reserved.

Sec. 138-210. Definitions.

The following words and phrases shall have the following meanings ascribed to them:

*Billing date* means the month, date, and year the utility bill is created.

*Delinquent* means any amount owed for utilities 40 days past payment due date.

*Past due* means any amount owed past the payment due date indicated on the utilities bill.

*Payment due date* means any amount owed 20 days past the billing date.

*Utility bill* means the bill rendered by the city to a customer for charges assessed on utilities furnished, late payments, fees, penalties, and any other sums owed to the city for utilities.

(Ord. No. 2003-87, § 1, 1-12-2004)

Sec. 138-211. Termination of water service for delinquent payments.

Water service to a customer shall be terminated upon non-payment of the utility bill. Termination shall be effective when the bill is delinquent. An administrative fee will be assessed for shut off of services.

Water service will be reinstated for delinquent customers upon payment of monies owed to the city and a deposit may be required. A re-connect fee will be charged to the customer for the connection of services.

(Ord. No. 2003-87, § 2, 1-12-2004)

**Secs. 138-212—138-220. Reserved**

**DIVISION 3**

Sec. 138-221. Service connection fee.

(a)

*Service connection fees.* A service connection fee shall be charged for each tap on the water system, as follows:

(1)

*Single-family detached users.* The service connection fee for a single-family detached user shall be equal to the sum of the fees attributable to indoor and outdoor use of the lot or parcel as follows:

a.

*Indoor use.* The portion of the fee attributable to indoor use shall be based upon number of bathrooms in the dwelling unit at time the certificate of occupancy for such unit is issued:

Number of Bathrooms .....Fee

1—2 .....$5,509

3—4 .....$8,901

5—6 .....$15,425

b.

*Outdoor use.* The portion of the fee attributable to outdoor use shall be based upon the total size of the lot or parcel as described in the subdivision plat and shall be determined in accordance with the following calculation:

Fee = Total square footage of the lot or parcel X 0.01638 gallons per square foot X $57.45.

c.

*Optional xeric landscaping credit.* A credit of $1,000.00 shall be applied to the portion of the fee attributable to outdoor use for any single-family detached user that installs front yard landscaping which fully complies with the requirements set forth in table 14.3B "Home Yard Landscaping - Xeric Option" of chapter 146 of this Code. In order to be eligible to receive such credit, the single-family detached user must agree to the installation of such landscaping in the service connection application.

(2)

*Single-family attached users.* The service connection fee for a single-family attached user shall be equal to the sum of the fees attributable to indoor and outdoor use of the lot or parcel as follows:

a.

*Indoor use.* The portion of the fee attributable to indoor use shall be $8,814 per unit.

b.

*Outdoor use.* The portion of the fee attributable to outdoor use shall be based upon the total landscaped area and shall be determined in accordance with the following calculation:

Fee = The sum of non-water-conserving landscaped common areas at $2.75 per square foot of landscaped area and water-conserving landscaped common areas at $1.47 per square foot of landscaped area

(3)

*Multi-family users.* The service connection fee for a multi-family user shall be $8,814 per unit.

(4)

*Commercial users.* The service connection fee for a commercial user shall be as follows:

Service Connection Size (Inches) .....Fee

5/8 and ¾ .....$20,043

1 .....$35,876

1½ .....$78,767

2 .....$143,104

For a service connection size of three inches or greater, the service connection fee for a commercial user shall be determined in accordance with the following calculation:

Verified average daily demand of the commercial user (measured in gallons per day) X $57.45.

For purposes of this section, verified average daily demand shall be determined by the water director and shall be based on the number of fixtures and the characteristics of the commercial development.

(5)

*Irrigation users.* The service connection fee for an irrigation user shall be as follows:

a.

For non-water-conserving landscaped common areas, $2.75 per square foot of landscaped area.

b.

For water-conserving landscaped common areas, $1.47 per square foot of landscaped area.

For purposes of this section, whether the landscaping proposed to be installed by the irrigation user qualifies as water-conserving landscaping shall be determined at the sole discretion of the water director in accordance with all applicable provisions of this chapter and chapter 146, article 14 of the city Code.

(6)

*Mixed-use users.* The service connection fee for mixed-use users shall be equal to the sum of the service connection fees attributable to each class of use identified in the service connection application.

(b)

*Time of payment.*

(1)

*Non-irrigation users.* Payment of the service connection fee for a residential, commercial, or mixed-use user shall be made no earlier than at the time of issuance of a building permit and no later than the date upon which application is made for a certificate of occupancy for the lot or parcel connecting to the water system. In any event, payment of such fee shall be a prerequisite to the issuance of a certificate of occupancy. The amount of such fee shall be calculated according to the fee schedule in effect at the time payment is made.

(2)

*Irrigation users.* Payment of the service connection fee for an irrigation user shall be made prior to the issuance of a building permit for the lot or parcel connecting to the water system. An irrigation tap shall be used only for irrigation purposes.

Each irrigation user will be assigned a service address and billing account in the name of the property owner or manager. Any landscape plans submitted by the irrigation user must be approved by both the water and planning departments prior to the issuance of a building permit. All determinations as to the size and type of irrigation tap required shall be at the sole discretion of the water director, consistent with the provisions of this article. Any such determination involving area demarcations or calculations, or volumetric calculations, shall be made available to the user for inspection, upon request.

(3)

*Prepayment.* The prepayment of service connection fees shall not be permitted under any circumstances.

(c)

*Limitations.* A tap on the water system shall be used for the sole purpose of providing water service to the lot or parcel identified in the service connection application and for which a building permit is issued. If the building permit is canceled or expires at any time prior to the tapping of the water system, the applicant shall be required to submit a new service connection application and pay the service connection fee in effect at the time of such application; provided, however, that a credit for the service connection fees previously paid to the city will be applied toward the fee schedule in effect at the time a new building permit for such lot or parcel is issued.

(d)

*Transfers.* Upon request of the applicant, and in the city manager's sole discretion, the city manager may authorize the application of the service connection fee previously paid for one lot or parcel towards payment of the service connection fee for a substitute property, provided that the applicant is the owner of both lots or parcels or the owner of the lot or parcel for which the service connection fee was originally paid, and provided that the applicant submits to the city a request for the transfer and a written release of any claim to the fee. Such transfer may only occur after the issuance of a building permit for the substitute property. Payment of any deficiency between the amount transferred and the fee in effect at the time the payment is made will be required prior to issuance of a certificate of occupancy. Such transfer may only be approved if the city manager determines that such transfer is consistent with the operational efficiency of the water system. This authorization does not grant authority to reduce, waive, defer, or assume service connection fees.

(e)

*Definitions.* For the purposes of this section, the following words and phrases shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1)

*City manager* means the city manager of the city; the term "city manager" shall also include such person's designee.

(2)

*Commercial user* means any lot or parcel which contains a building or structure that does not fall within any of the residential user classes as defined in this subsection (e).

(3)

*Irrigation user* means any lot or parcel served by a tap on the water system used for the sole purpose of providing water to operate and maintain a permanent, underground, and automatically-controlled artificial watering system, which system is designed to transport and distribute water to plant materials on said lot or parcel. A residential, commercial, or mixed-use user may also be an irrigation user for purposes of this section.

(4)

*Mixed-use user* means any lot or parcel which contains a building that includes both residential and commercial uses and where customers receive master-metered water service.

(5)

*Multi-family user* means any lot or parcel which contains a building with three or more separate independent dwelling units for permanent occupancy arranged in a stacked configuration where residential customers receive master-metered water service. The term "multi-family user" shall also include any master-metered manufactured housing.

(6)

*Residential user* means any single-family-detached, single-family attached, or multi-family user.

(7)

*Service connection* means the connection of a service line to a city water main which, upon application to and approval by the water director and payment of the appropriate service connection fee, results in water service to the lot or parcel and for the particular user class identified in the application.

(8)

*Service connection fee* means a one-time charge assessed to an applicant for a tap on the city's water system to permit water service to the lot or parcel and for the particular user class identified in the application.

(9)

*Single-family attached user* means any lot or parcel which contains two or more dwelling units attached in a townhome, two-family, or duplex configuration as described in section 146-2001 of this Code where residential customers receive individual or master-metered water service.

(10)

*Single-family detached user* means any lot or parcel which contains a single dwelling unit in a single building not attached to any other buildings other than those accessory to the dwelling where residential customers receive individually metered water service.

(11)

*Tap* means the physical connection of a service line to a city water main.

(12)

*Tapping* means the act of making a physical connection of a service line to a city water main.

(13)

*Water director* means the Director of Aurora Water; the term "water director" shall also include such person's designee.

(14)

*Water system* means the municipal water system presently owned and operated and maintained by the city acting by and through its utility enterprise, together with all equipment of and improvements to such water system.

(f)

*Determination of user class.* When there is a dispute about the classification of customers within one of the user classes, the decision of the water director shall be final and subject only to judicial review.

(g)

*Meter required.* All single-family detached users shall be individually metered. Unless otherwise authorized by the water director , all single-family attached users and each building occupied by any multi-family or commercial user shall be separately metered. The landscape area associated with a multi-family user and/or a single-family attached common area must be irrigated through an irrigation meter. Clubhouses, swimming pools, and recreation facilities of a single-family attached or detached user cannot be served by an irrigation meter. Appropriately sized taps will be required to serve these facilities.

(h)

*Installation of meter.* The city shall, as part of its connection service, remuneration for which is to be considered part of the service connection fee, furnish and install the water meter. The applicant for the service connection shall, at his or her sole expense, make the tap , provide and backfill the trench, and provide and install the corporation stop, service line pipe, meter yoke where required, meter pit or vault, curb stop with box, pressure reducing valves where required, and backflow preventer where required, all in accordance with the specifications of the city.

(i)

*Size of service connection.* All service connections larger than three-fourths inch shall be of uniform size from the tap to the building or structure. The water director shall reserve the right to reevaluate the size of the service connection when any existing building, structure, or development with a tap is remodeled or the existing usage of such building, structure, or development is changed. The water director may require a larger service connection to any building, structure, or development if the water requirements when calculated by the fixture unit method, as specified in chapter 22, article X of this Code, cause the service line velocity to exceed ten feet per second.

(j)

*Stub-out of service line.* If the applicant for a service connection desires to stub-out service line connections from the water main to the property line for the purpose of paving, $100.00 shall be due and payable at the time the permit for stub-out is requested, with the balance of the service connection fee due no earlier than the date upon which application is made for a building permit and no later than the date upon which application is made for a certificate of occupancy. The balance of the service connection fee shall be calculated according to the fee schedule in effect at the time payment of such balance is made.

(k)

*Backflow preventer required.* Wherever, in the opinion of the water director, a reduced pressure backflow preventer is required to eliminate contamination of the public water supply through a specific service connection, such backflow preventer of a type and design approved by the water director shall be furnished and installed by the applicant, at its expense, in accordance with the specifications of the city.

(l)

*Banking of meters prohibited.* Each service line and meter shall supply a specific building. The banking of meters where a particular building or group of buildings may be supplied by two or more meters shall be prohibited, except in unusual circumstances where two meters may be allowed by the water director.

(m)

*Building additions or improvements.* If a building or structure undergoes an addition or improvement in which the current meter size is incapable of servicing the resultant total demand per subsection (i) of this section, the applicant will have the option to either replace the existing meter and service line with the appropriately sized meter and service line or install a separate meter and service line to directly service the addition. It is prohibited to interconnect any two or more meters in any situation.

(n)

*Deferral of service connection fees.* The city council declares that assisting owners of residential properties within the city which are not connected to the water system with the financial burden of making such connections serves the public interest by encouraging the use of a safe and reliable source of potable water by all city residents. Therefore, upon application by the owner of any residential property located within the city which is served by an independent water system permitted by section 138-154, the water director shall defer payment of all service connection fees associated with the connection of such property to the water system. An interest rate of five percent per annum shall be charged on each deferral, with payment of all fees and the interest thereon to occur at such time as title to the property is transferred or five years from the date the deferral is granted, whichever is earlier. Upon request, the owner may enter into an agreement to make monthly payments of fees and interest, upon such terms and conditions as the water director may authorize; provided, however, that the term of such agreement shall not exceed five years from the date the deferral is granted. As security for payment, a lien shall be placed upon the property at the time the deferral is granted. Any failure of the owner to make payment when due shall result in the immediate certification of all unpaid amounts for collection to the treasurer of the county in which such property is located. This subsection shall apply only to those residential properties which have been developed as of January 1, 1995.

(o)

*Wet tap fees.* Fees for taps for distribution line extensions and fees for taps for private fire protection facilities (wet tap fees) shall be set pursuant to section 2-587 of this Code. These fees shall be charged in addition to any applicable service connection fee charged for tapping into the distribution line extension.

(Code 1979, § 39-83; Ord. No. 96-66, § 2, 12-16-96; Ord. No. 2000-139, § 1, 12-18-2000; Ord. No. 2002-65, § 1, 11-18-2002; Ord. No. 2003-03, §§ 1, 2, 1-27-2003; Ord. No. 2003-04, § 1, 1-27-2003; Ord. No. 2003-12, § 1, 4-14-2003; Ord. No. 2005-02, § 1, 2-7-2005; Ord. No. 2005-74, § 1, 10-10-2005; Ord. No. 2005-76, § 1, 10-24-2005; Ord. No. 2006-65, § 1, 11-13-2006; Ord. No. 2008-61, § 1, 11-24-2008; Ord. No. 2009-15, § 1, 4-13-2009; Ord. No. 2009-49, § 1, 11-16-2009; Ord. No. 2010-27, § 1, 8-9-2010; Ord. No. 2011-36, 11-14-2011; [Ord. No. 2013-33, § 1, 10-14-2013, eff. 11-16-2013](http://newords.municode.com/readordinance.aspx?ordinanceid=624092&datasource=ordbank) )

Sec. 138-222. Water transmission development fee.

Upon annexation to the city there shall be levied and assessed upon each vacant and undeveloped lot, parcel of land, or premises situated in the city limits a water transmission development fee which shall be in addition to service connection fees and service extension fees. Such water transmission development fee shall be due and payable at the time of platting and shall be computed on the basis of the service area included within the annexed parcel of land.

(Code 1979, § 39-84)

Sec. 138-223. Water rates and charges.

(a)

The following minimum monthly service charges and metered rates are fixed and established for water service: ;ml1; (1) .....a.

Effective January 1, 2009

|  |  |  |
| --- | --- | --- |
| Meter size(inches) | Residential, multifamily and commercial | Irrigation |
| 5/8 and ¾ |  11.22 |   9.73 |
| 1 and 1¼ |  16.53 |   12.81 |
| 1½ |  25.40 |   17.94 |
| 2 |  36.04 |   24.11 |
| 3 |  64.40 |   40.53 |
| 4 |  96.30 |   59.02 |
| 6 | 184.94 |  110.37 |
| 8 | 433.11 |  254.12 |

Effective January 1, 2010

|  |  |  |
| --- | --- | --- |
| Meter size(inches) | Residential, multifamily and commercial | Irrigation |
| 5/8 and ¾ |   12.06 |   10.46 |
| 1 and 1¼ |   17.77 |   13.77 |
| 1½ |   27.31 |   19.28 |
| 2 |   38.74 |   25.91 |
| 3 |   69.23 |   43.57 |
| 4 |  103.53 |   63.45 |
| 6 |  198.81 |  118.64 |
| 8 |  465.60 |  273.18 |

(2)

a.

*Metered water rates.* The rate for water used each billing period by each customer class shall be as follows:

Residential and Multifamily With Less Than Five Individual Units

Effective January 1, 2009

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Tier 1 | 0-20,000 gallons, per 1,000 | 4.90 |
|  |  |  |
| Tier 2 | 20,001-40,000 gallons, per 1,000 | 5.58 |
|  |  |  |
| Tier 3 | 40,001 gallons and over, per 1,000 | 6.98 |
|  |  |  |

Effective January 1, 2010

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Tier 1 | 0-20,000 gallons, per 1,000 | 5.27 |
|  |  |  |
| Tier 2 | 20,001-40,000 gallons, per 1,000 | 6.00 |
|  |  |  |
| Tier 3 | 40,001 gallons and over, per 1,000 | 7.50 |
|  |  |  |

Effective January 1, 2009

|  |  |  |  |
| --- | --- | --- | --- |
|  | Multifamily with five or more units | Commercial | Irrigation |
|  |  |  |  |
| Cost per 1,000 gallons used up to 100% of customer's annual block allocation | 5.21 | 5.27 | 6.03 |
|  |  |  |  |
| Cost per 1,000 gallons used greater than 100% of customer's annual block allocation | 5.73 | 5.80 | 6.63 |
|  |  |  |  |

Effective January 1, 2010

|  |  |  |  |
| --- | --- | --- | --- |
|  | Multifamily with five or more units | Commercial | Irrigation |
|  |  |  |  |
| Cost per 1,000 gallons used up to 100% of customer's annual block allocation | 5.60 | 5.67 | 6.48 |
|  |  |  |  |
| Cost per 1,000 gallons used greater than 100% of customer's annual block allocation | 6.16 | 6.24 | 7.13 |
|  |  |  |  |

b.

*Water availability surcharges.* Prior to imposing any water availability surcharges, the city council shall determine the water availability conditions by supplemental resolution. The water availability surcharges shall be in effect until further action by council.

The water availability surcharges will be in addition to the rates described in section 138-223(a)(2)(a). The applied water availability surcharges for each customer shall be based on the customer's cumulative usage in each tier or rate as applicable and the approved water availability conditions stage. The water availability surcharges for each customer class shall be as follows:

Surcharges for Residential and Multifamily With Less Than Five Individual Units

Effective January 1, 2009

|  |  |
| --- | --- |
|  | Water Availability Conditions |
| Tier | Water availability conditions | Stage I | Stage II | Stage III | Stage IV | Stage V |
| I | Surcharge per 1,000 gallons used up to 20,000 gallons | 0.00 | 0.43 | 1.07 | 1.89 | 5.56 |
| II | Surcharge per 1,000 gallons used for 20,001 to 40,000 gallons | 0.00 | 0.48 | 1.17 | 2.05 | 5.91 |
| III | Surcharge per 1,000 gallons used for 40,001 gallons and over | 0.00 | 0.87 | 1.78 | 2.94 | 8.24 |

Effective January 1, 2010

|  |  |
| --- | --- |
|  | Water Availability Conditions |
| Tier | Water availability conditions | Stage I | Stage II | Stage III | Stage IV | Stage V |
| I | Surcharge per 1,000 gallons used up to 20,000 gallons | 0.00 | 0.46 | 1.15 | 2.03 | 5.98 |
| II | Surcharge per 1,000 gallons used for 20,001 to 40,000 gallons | 0.00 | 0.51 | 1.25 | 2.21 | 6.35 |
| III | Surcharge per 1,000 gallons used for 40,001 gallons and over | 0.00 | 0.94 | 1.92 | 3.16 | 8.86 |

Surcharges for Multifamily With Five or More Units

Effective January 1, 2009

|  |  |
| --- | --- |
|  | Water Availability Conditions |
| Allowed water usage for tiers | Stage I | Stage II | Stage III | Stage IV | Stage V |
| Surcharge per 1,000 gallons used up to 100% of customer's annual block allocation | 0.00 | 0.42 | 1.05 | 1.83 | 5.22 |
| Surcharge per 1,000 gallons used greater than 100% of customer's annual block allocation | 0.00 | 0.51 | 1.36 | 2.56 | 7.83 |

Effective January 1, 2010

|  |  |
| --- | --- |
|  | Water Availability Conditions |
| Allowed water usage for tiers | Stage I | Stage II | Stage III | Stage IV | Stage V |
| Surcharge per 1,000 gallons used up to 100% of customer's annual block allocation | 0.00 | 0.45 | 1.13 | 1.96 | 5.61 |
| Surcharge per 1,000 gallons used greater than 100% of customer's annual block allocation | 0.00 | 0.55 | 1.46 | 2.75 | 8.42 |

Surcharges for Commercial

Effective January 1, 2009

|  |  |
| --- | --- |
|  | Water Availability Conditions |
| Allowed water usage for tiers | Stage I | Stage II | Stage III | Stage IV | Stage V |
| Surcharge per 1,000 gallons used up to 100% of customer's annual block allocation | 0.00 | 0.42 | 1.06 | 1.85 | 5.27 |
| Surcharge per 1,000 gallons used greater than 100% of customer's annual block allocation | 0.00 | 0.51 | 1.37 | 2.58 | 7.91 |

Effective January 1, 2010

|  |  |
| --- | --- |
|  | Water Availability Conditions |
| Allowed water usage for tiers | Stage I | Stage II | Stage III | Stage IV | Stage V |
| Surcharge per 1,000 gallons used up to 100% of customer's annual block allocation | 0.00 | 0.45 | 1.14 | 1.99 | 5.67 |
| Surcharge per 1,000 gallons used greater than 100% of customer's annual block allocation | 0.00 | 0.55 | 1.47 | 2.77 | 8.50 |

Surcharges for Irrigation

Effective January 1, 2009

|  |  |
| --- | --- |
|  | Water Availability Conditions |
| Allowed water usage for tiers | Stage I | Stage II | Stage III | Stage IV | Stage V |
| Surcharge per 1,000 gallons used up to 100% of customer's annual block allocation | 0.00 | 0.62 | 1.59 | 2.95 | 7.61 |
| Surcharge per 1,000 gallons used greater than 100% of customer's annual block allocation | 0.00 | 0.73 | 2.06 | 4.13 | 11.43 |

Effective January 1, 2010

|  |  |
| --- | --- |
|  | Water Availability Conditions |
| Allowed water usage for tiers | Stage I | Stage II | Stage III | Stage IV | Stage V |
| Surcharge per 1,000 gallons used up to 100% of customer's annual block allocation | 0.00 | 0.66 | 1.71 | 3.17 | 8.18 |
| Surcharge per 1,000 gallons used greater than 100% of customer's annual block allocation | 0.00 | 0.79 | 2.22 | 4.44 | 12.29 |

Surcharges for Hydrant Meter Users

Effective January 1, 2009

|  |  |
| --- | --- |
|  | Water Availability Conditions |
| Allowed water usage for tiers | Stage I | Stage II | Stage III | Stage IV | Stage V |
| Surcharge per 1,000 gallons used | 0.00 | 0.62 | 1.59 | 2.95 | 7.61 |

Effective January 1, 2010

|  |  |
| --- | --- |
|  | Water Availability Conditions |
| Allowed water usage for tiers | Stage I | Stage II | Stage III | Stage IV | Stage V |
| Surcharge per 1,000 gallons used | 0.00 | 0.66 | 1.71 | 3.17 | 8.19 |

(b)

*Definitions.* For purposes of this section, the following words and phrases shall have the meanings ascribed to them:

(1)

A customer's "annual block allocation" is an individualized annual water budget amount allocated to each commercial, irrigation, and multifamily with five or more units customer for use in each calendar year. The annual block allocation shall be determined by multiplying the number of gallons used at the service address in the higher use year of 2005 or 2006 by a factor of 1.25. The annual block allocation for customer accounts without 2005 and 2006 service address historical use data shall be set by the director pursuant to the water management plan. Unused allocation amounts will not carry to subsequent years. The director may establish a review or appeal process and pursuant to such review or appeal process may increase a customer's annual block allocation if the director determines that the customer's current annual block allocation is not adequate, the customer is using best water management practices, and is not wasting water.

(2)

The allowable citywide outdoor allocation shall be determined by city council and is a function of the reservoir levels, usage, and the projected yield of the water supply system and will be described in the current water management plan.

(3)

The water management plan shall refer to the rules and regulations established by the director of water regarding water allocation, usage restrictions, and conservation adopted pursuant to section 2-3.

(4)

The term residential shall mean single-family detached and individually metered single-family attached. The terms single-family detached, single-family attached and multifamily will have the same definitions as in section 138-221, except that master metered single-family attached shall be considered multifamily. Irrigation users are those accounts that consume water only for irrigating external lawn areas or areas covered with vegetation. Construction and hydrant water users are users that obtain water service through a hydrant meter. All other users will be considered commercial or industrial users.

(5)

The term "water service" shall mean the retail sale of water and all services attendant thereto by the city to single-family detached, single-family attached, multifamily, commercial, and irrigation users. Water service shall not include the sale or trade of water by the city to a municipal or quasi-municipal water supplier for resale or use by such water supplier in accordance with such terms and conditions as the city council may establish.

(6)

The term "base rate" shall mean the adopted charges for water services described in section 138-223(a)(2)a.

(c)

*Private fire protection service.*

|  |  |  |
| --- | --- | --- |
| Fire LineTap Size(inches) | Monthly Service ChargeInside CityEffective January 1, 2009 | Monthly Service ChargeInside CityEffective January 1, 2010 |
|  2 | $  1.56 |   1.67 |
|  3 |    3.25 |   3.49 |
|  4 |    5.85 |   6.26 |
|  6 |   13.00 |  13.98 |
|  8 |   22.36 |  24.03 |
| 10 |   35.36 |  38.01 |
| 12 |   46.54 |  50.03 |

(d)

*Outside city.* The council shall have the sole and exclusive authority to contract to furnish water service outside the city limits and to determine and classify all uses therefor. Whenever a contract is made to furnish water service outside of the city limits, the city council shall establish a rate for furnishing water service, which rate shall be not less than 1½ times the in-city rate. Factors the city council will consider to establish such rate include, but are not limited to, water acquisition costs, transportation costs, treatment costs, debt service costs, infrastructure development costs, improvement and maintenance costs, and any potential offsetting benefit to the water utility or the city. In such outside city contracts, the city council may also require payment of a service connection fee for each tap or tap equivalent which is to receive water from the city.

(e)

*Reserved.*

(f)

*Construction and hydrant water.* The following charges are established for water service furnished through a hydrant meter:

(1)

*Monthly service charge.* The monthly service meter charge shall be as follows:

|  |  |  |
| --- | --- | --- |
| Meter Size(inches) | Monthly chargeeffective January 1, 2009 | Monthly chargeeffective January 1, 2010 |
| ¾ |  10.28 |  11.05 |
| 3 |  60.37 |  70.09 |

(2)

*Water usage rate.* All water furnished shall be charged at the rate of $8.35 effective January 1, 2009, and $8.97 effective January 1, 2010 per 1,000 gallons.

(g)

*Public fire protection service.* An annual fee shall be paid to the water department by the fire department responsible for fire protection service within the limits of the city. The amount of such fee shall be established by the director of water in accordance with the provisions of section 2-587 of this Code.

(Code 1979, § 39-85; Ord. No. 98-92, § 1, 12-14-98; Ord. No. 2002-13, §§ 1, 2, 3-18-2002; Ord. No. 2002-30, § 1, 6-3-2002; Ord. No. 2002-47, § 1, 8-19-2002; Ord. No. 2002-67, § 1, 11-18-2002; Ord. No. 2002-69, § 1, 11-18-2002; Ord. No. 2003-09, §§ 1, 2, 3-24-2003; Ord. No. 2004-12, § 1, 3-22-2004; Ord. No. 2004-28, § 1, 5-3-2004; Ord. No. 2005-10, § 1, 3-21-2005; Ord. No. 2005-74, § 1, 10-10-2005; Ord. No. 2005-76, § 2, 10-24-2005; Ord. No. 2005-92, § 26, 12-5-2005; Ord. No. 2006-15, § 1, 3-20-2006; Ord. No. 2006-65, § 2, 11-13-2006; Ord. No. 2007-86, § 1, 1-7-2008; Ord. No. 2008-11, § 1, 2-25-2008; Ord. No. 2008-44, § 1, 9-15-2008; Ord. No. 2008-61, § 2, 11-24-2008)

Sec. 138-224. Disposition of fees.

(a)

All water development, connection, and service fees paid to the city pursuant to this Code shall be segregated, credited to, and deposited in the water fund of the utility enterprise and shall be used for the construction, installation, operation, maintenance, replacement, extension, and improvement of the water system and all lawful activities associated therewith as may be directed by the city council. Such fund may also be used for the acquisition of land necessary for the construction and installation of water facilities.

(b)

The utility enterprise may pledge the proceeds of such fees to the retirement of the principal and interest of revenue bonds or other obligations issued by the enterprise or general obligation bonds issued by the city for the purpose of financing the construction, installation, replacement, extension or improvement of water facilities.

(c)

Appropriations for capital projects from the water fund shall not lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned, provided that any project shall be deemed to have been abandoned if three fiscal years elapse without any expenditure from or encumbrance of the appropriation for such project.

(Code 1979, § 39-86; Ord. No. 99-84, § 2, 11-29-99)

Sec. 138-225. Authorizing collections by county treasurer.

The city council finds and determines that the policy of the city is that all water services provided by the city shall be deemed to be provided to the real property so served without regard to the person billed for the service. All unpaid fees and rates for water services are declared to be delinquent 40 days after the payment due date. There is declared to be a lien on the real property so served in the amount of all unpaid fees and rates, including an administrative fee not to exceed ten percent of the total amount of such unpaid fees and rates. All liens created by this section shall relate back to the time that the water services for which payment is still due and owing were provided to the real property. The city clerk is authorized and empowered to certify to the treasurer of the proper county the legal description of the premises so served and the amount of the delinquency assessable to the premises. Certification of the unpaid fees and rates to the county treasurer shall serve as notice to the property owner of said delinquency. The lien created by this section of the Code shall be a first lien upon the subject property and shall be superior to all other liens, or claims against such property of whatever kind or nature regardless of date, except any lien for general property taxes or special improvement district assessments. Upon receipt of said certification, the county treasurer shall proceed to collect such unpaid fees and rates certified in the same manner as general property taxes and the redemption thereof.

(Code 1979, § 39-87; Ord. No. 96-28, § 2, 7-22-96; Ord. No. 2003-87, § 3, 1-12-2004)

Sec. 138-226. Billing appeals.

(a)

Any person who is provided water service by the water delivery system shall have the right to consult with designated employees of the water department concerning excess or duplicate billing or billing delinquencies which may require service shutoff.

(b)

It shall be the duty of the director of water to formulate an informal procedure to facilitate systematic and consistent handling of customer complaints, appeals for relief and contesting of shutoffs.

(c)

The director shall have the authority to designate those employees who shall be empowered to make adjustments to utilities billing or other necessary arrangement for payment of utility bills.

(Code 1979, § 39-88; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-227. Deposit required.

A person who is receiving utility service (water, sewer, and storm drainage) from the city shall be required to make a utility service deposit if his or her payment record indicates recent or substantial delinquencies or the existence of a bankruptcy proceeding. Such deposit shall not exceed the estimated amount of an average of two months of applicable utility service based upon such person's billing history. The making of a deposit shall not relieve any person from payment of current bills for utility services as they become due. Demands for deposits and their application to account balances shall be made on such forms and in accordance with such rules and regulations as may be authorized by the director of water.

(Ord. No. 95-53, exhibit A (§ 39-89), 9-11-95; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-228. Incentive for mixed-use development in designated urban centers and transit station areas.

(a)

*Legislative declaration.* The city council finds and declares that:

(1)

The encouragement of mixed-use development in designated urban centers and transit station areas is vital to the economic and social welfare of the people of the city;

(2)

The benefits of mixed-use development in designated urban centers and transit station areas include the following:

a.

Job creation;

b.

Economic development;

c.

Improved workforce access to job opportunities;

d.

Enhanced access to public transit;

e.

Improved public health;

f.

Improved access to amenities;

g.

Increased public transit ridership;

h.

Reduced greenhouse gas emissions; and

i.

Reduced transportation costs.

(3)

Incentives are often necessary in order to attract mixed-use development of a sufficient quality and density to provide the desired benefits in designated urban centers and transit station areas; and

(4)

The public purpose to be served by providing incentives for mixed-use development in designated urban centers and transit station areas outweighs any individual interests incidentally served thereby.

(b)

*Account established.* There is hereby established in the water fund of the utility enterprise an account to be known as the development incentive account. The account shall be credited with an amount not to exceed $4,000,000.00 in income from rates, fees, or charges for the services furnished by, or the direct or indirect use of, the water system that is available to the city for use free of the lien imposed by Ordinance No. 2003-18.

(c)

*Incentive.* Moneys deposited in the development incentive account may be used to finance an amount not to exceed the difference between the water service connection fee payable to the city by an eligible mixed-use user under section 138-221(a)(6) of this Code and the commercial water service connection fee that such user would have paid prior to the effective date of City Ordinance No. 2013-33. Such incentive shall be made available only under the following circumstances:

(1)

The city shall have previously approved a development plan for the lot or parcel to be served by the connection, which plan shall authorize the construction of at least one vertical, mixed-use building.

(2)

The lot or parcel to be served by the connection shall be located within an urban center or transit station area as designated by the city's comprehensive plan.

(3)

If the lot or parcel to be served by the connection is located within an urban center, such center shall be designated in the Metro Vision regional land use plan adopted by the Denver Regional Council of Governments. All development on such lot or parcel shall be in full compliance with the terms and conditions of the approved development plan.

(4)

If the lot or parcel to be served by the connection is located within a transit station area, there shall be an approved station area plan or master plan for such area prepared in association with the Regional Transportation District's FasTracks Commuter Rail and Light Rail Program. All development on such lot or parcel shall be in full compliance with the terms and conditions of the approved development plan.

(5)

For development plans approved by the city on or after January 11, 2014, the lot or parcel to be served by the connection shall contain a vertical, mixed-use building with the following characteristics:

a.

The building shall contain no less than four stories, at least three of which shall be dedicated to residential uses;

b.

The building shall be served by one or more elevators;

c.

No less than 50 percent of the parking required for the building shall be provided by an appurtenant parking structure;

d.

No less than 55 percent of the first floor frontage of the building shall be dedicated to commercial uses;

e.

Where the first floor contains retail space, no less than 55 percent of total square footage of such retail space shall generate city sales tax revenues; and

f.

The primary residential entrances to the building shall be located on the building's first floor frontage.

(d)

*Written agreement.* The terms and conditions of any incentive granted by the city pursuant to this section shall be set forth in a written agreement between the city and the eligible mixed-use user, approved by resolution of the city council, and executed by the mayor. At a minimum, such agreement shall provide for full reimbursement of the development incentive account by the mixed-use user of all amounts advanced by the city in the event that the lot or parcel to be served by the connection is not developed in accordance with the requirements of this section. The decision whether to grant an incentive and enter into an incentive agreement hereunder shall be at the sole discretion of the city council.

(e)

*Limitations.* The incentive described in this section shall be made available to eligible mixed-use users on a first-come, first-served basis following approval of a site plan for a mixed-use project. No single project shall be eligible for a total incentive in excess of $1,000,000.00. This incentive shall terminate upon the exhaustion of all funds made available pursuant to subsection (b) of this section or January 1, 2019, whichever first occurs.

([Ord. No. 2013-48, § 1, 11-18-13](http://newords.municode.com/readordinance.aspx?ordinanceid=634134&datasource=ordbank) )

**Secs. 138-229—138-255. Reserved**

**ARTICLE 6 – WASTEWATER CONTROL**

**DIVISION 1**

Sec. 138-256. Definitions and abbreviations.

(a)

*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:

*Act or the act* means the federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

*Approval authority* means the director of the water quality control division of the state department of health, or the regional administrator of the EPA.

*Authorized representative of commercial or significant industrial user* may be:

(1)

A responsible corporate officer, if such user is a corporation. For purposes of this article, a responsible corporate officer means:

a.

A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

b.

The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000.00, in second quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2)

A general partner or proprietor if such user is a partnership or sole proprietorship, respectively.

(3)

A duly authorized representative of an individual designated in subsection (1) or (2) of this definition if:

a.

The authorization is made in writing by the individual;

b.

The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates including but not limited to the position of plant manager, well operator, well field superintendent or a position of equivalent responsibility, or the individual having overall responsibility for environmental matters for the company; and

c.

The written authorization is submitted to the city and to the metro district.

If an authorization granted under subsection (3) of this definition is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or for environmental matters for the company, a new authorization satisfying the requirements of subsection (3)b of this definition must be submitted to the city and the metro district prior to or together with any reports required to be signed by an authorized representative.

*Biochemical oxygen demand (BOD)* means the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure, after five days, at 20 degrees Celsius and expressed in terms of weight and concentration (milligrams per liter (mg/l)).

*Board of health* means the board of health of the Tri-County District Health Department.

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

*Building sewer* means a sewer conveying wastewater from the premises of a user.

*Building sewer permit (sewer tap permit)* means a permit authorizing connection to but not necessarily the use of the municipal wastewater collection system.

*Categorical standards* means national categorical pretreatment standards or pretreatment standards.

*Commercial user* means any business or enterprise falling outside the definition of significant industrial user and which contributes wastewater to the POTW.

*Commercial wastewater discharge permit* means a permit which must be obtained by all commercial users of the POTW and which is further described in division 2 of this article. Dwellings from which no businesses are operated are not required to obtain a discharge permit.

*Cooling water* means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

*Director of water* means the person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this article or a duly authorized representative thereof.

*Environmental protection agency or EPA* means the U.S. Environmental Protection Agency.

*Health officer* means the public health officer of the Tri-County District Health Department or an authorized representative thereof.

*Holding tank waste* means any waste from holding tanks such as chemical toilets, campers, trailers, septic tanks, vacuum-pump trucks, or other vessels.

*Industrial wastes* means the liquid wastes from industrial processes, trade or other businesses as distinct from sanitary or domestic waste.

*Industrial wastewater discharge permit* means a permit which must be obtained by all significant industrial users of the POTW and which is further described in division 2 of this article.

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

(1)

Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2)

Therefore is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal as required by the following statutory provisions and regulations or permits issued thereunder or more stringent state or local regulations; section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA), including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the (SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

*Metro district* means the Metro Wastewater Reclamation District, a political subdivision of the state.

*National categorical pretreatment standard (pretreatment standard)* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the act (33 USC 1317) which applies to a specific category of industrial users.

*National Pollutant Discharge Elimination System or NPDES permit* means a permit issued pursuant to section 402 of the act (33 USC 1342).

*Natural outlet* means any outlet, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or ground water.

*New source* means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which is commenced after the publication of proposed pretreatment standards under section 307(c) of the act (33 USC 1317) which will be applicable to such source, if such standards are thereafter promulgated in accordance with that section, provided that:

(1)

The building, structure, facility, or installation is constructed at a site at which no other source is located;

(2)

The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(3)

The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

*Nonmunicipal waste disposal system* means a system not treating wastewater from municipal corporations or sanitary districts.

*Pass through* means a discharge which exits from the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

*Person* means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns, including any person or entity contracting with the city for sewer service.

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

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

*Pretreatment or treatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or alteration can be obtained by physical, chemical or biological processes, or by other means, except as prohibited by 40 CFR 403.6(D).

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

*Public sewer* means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

*Publicly owned treatment works (POTW)* means a treatment works as defined by section 212 of the act (33 USC 1292) which is owned, in this instance, by the city or the metro district. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of this article, POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are users of the city's POTW.

*POTW treatment plant* means that portion of the POTW designed to provide treatment to wastewater.

*Sanitary sewer* means a sewer which carries wastewater and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

*Sewer* means a pipe or conduit for carrying wastewater or drainage water.

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

*Significant industrial user* means any industrial (nondomestic) user who:

(1)

Is subject to national categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N.

(2)

Is found by the city or the metro district to have a reasonable potential of adversely affecting city or district operations.

(3)

Is discharging an average of 25,000 gallons or more per day of process wastewater to the sanitary sewer system; provided, however, that the metro district may delete a noncategorical industrial user from the list of significant industrial users if the user has no potential for adversely affecting the district's operation or for violating any deleterious waste standard as set forth in both the service contract and the rules and regulations of the metro district.

(4)

Is discharging a process wastewater stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the metro district's treatment plant.

*Standard industrial classification (SIC)* means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended.

*Storm drain (storm sewer)* means a pipe or conduit which carries stormwaters and surface waters and drainage, but excludes wastewater and industrial wastes, other than unpolluted cooling water.

*Stormwater* means any flow occurring during or following any form of natural precipitation and resulting therefrom.

*Total suspended solids (TSS)* means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering according to standard laboratory procedure.

*Toxic pollutant* includes but is not limited to any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of section 307(a) of the act.

*User* means any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

*Wastewater* means the liquid and water-carried industrial, commercial, or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(b)

*Abbreviations.* The following abbreviations shall have the designated meanings:

*BOD.* Biochemical oxygen demand.

*CFR.* Code of Federal Regulations.

*COD.* Chemical oxygen demand.

*EPA.* Environmental Protection Agency.

*L.* Liter.

*Mg.* Milligrams.

*Mg/l.* Milligrams per liter.

*NPDES.* National Pollutant Discharge Elimination System.

*O & M.* Operation and maintenance.

*POTW.* Publicly owned treatment works.

*RCRA.* Resource Conservation and Recovery Act, 42 USC 6901 et seq.

*SIC.* Standard industrial classification.

*SWDA.* Solid Waste Disposal Act, 42 USC 6901 et seq.

*USC.* United States Code.

*TSS.* Total suspended solids.

(Code 1979, § 39-99; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-257. Penalties; civil and criminal.

(a)

*Civil penalties.*

(1)

Any person who violates any provision of this article or any order, rule, regulation or permit issued under this article shall be subject to a civil penalty of not more than $5,000.00 per day for each day during which such violation occurs or continues.

(2)

In addition to the penalties provided in subsection (a) of this section, the city may recover reasonable attorneys' fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person found to have violated this article or the orders, rules, regulations and permits issued under this article.

(b)

*Criminal penalties.*

(1)

Any person who violates any provision of this article or any order, rule, regulation, or permit issued under this article shall, upon conviction, be punished by a fine of not more than $5,000.00 or by imprisonment for not more than six months or by both.

(2)

Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

(3)

Any fine imposed under this section shall not be suspended by any municipal judge.

(Code 1979, § 39-107)

Sec. 138-258. Purpose and policy; objectives; applicability.

(a)

*Purpose and policy.* This article sets forth uniform requirements for direct and indirect contributors to the wastewater collection and treatment system of the city and enables the city to comply with all requirements of the Metro Wastewater Reclamation District, applicable state laws and the general pretreatment regulations issued pursuant to the Clean Water Act of 1977.

(b)

*Objectives.* The objectives of this article are to:

(1)

Prevent the introduction of pollutants into the publicly owned treatment works (POTW) which will interfere with the operation of the system or contaminate the resulting sludge.

(2)

Prevent the introduction of pollutants into the POTW which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system.

(3)

Improve the opportunity to recycle and reclaim wastewaters and sludges from the system.

(c)

*Applicability.* This article provides for the regulation of direct and indirect users of the POTW through the issuance of wastewater discharge permits to significant industrial users, new commercial users, and other commercial users submitting plans for alteration, remodeling, or other work that could change the nature or amount of wastewater discharge from the user to the city wastewater collection system. Furthermore, it authorizes monitoring and enforcement activities and provides for user reporting. This article shall apply within the city and to persons located outside the city who are users of the POTW. Except as otherwise provided in this article, the director of water shall administer, implement and enforce this article.

(Code 1979, § 39-98; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-259. Use of public sewers required.

(a)

It shall be unlawful for any person to place, deposit, discharge or permit to be placed, deposited or discharged any human or animal excrement, garbage, wastewater or other polluted water on any public or private property or in any natural outlet within the city or in any area under the jurisdiction of the city except where suitable treatment has been provided in accordance with this article.

(b)

Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal or treatment of wastewater.

(c)

The owner or occupant of every structure or property used for human occupancy situated within the city is required at his or her expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with this article, within 90 days after the date of official notice to do so, provided that the public sewer is within 100 feet of such owner's or occupant's property line.

(Code 1979, § 39-100)

Sec. 138-260. Nonmunicipal systems.

(a)

It shall be unlawful for any person to construct, remodel or install any nonmunicipal waste disposal system within the corporate boundaries of the city without first making application to and obtaining a permit from the health officer.

(b)

At such time as a public sewer becomes available to a property served by a nonmunicipal waste disposal system as provided in subsection 138-259(c), a direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools and similar nonmunicipal waste disposal facilities shall be abandoned, cleaned of sludge and filled with suitable material.

(Code 1979, § 39-101)

Sec. 138-261. Construction requirements.

(a)

It shall be unlawful for any person to construct, install, place or attempt to construct, install or place any public sanitary sewer system extension or related subsurface structure or facility within any public street, avenue, alley, or other public way, without first having entered into a sanitary sewer extension agreement with the utility enterprise. The agreement shall provide for the dedication of all sanitary sewer system improvements so constructed or installed to the utility enterprise upon such terms and conditions as the director of water may determine.

(b)

Application for a sanitary sewer extension agreement shall be made to the utility enterprise on forms provided by the director of water. The applicant shall provide all necessary technical information and data regarding the proposed sanitary sewer system improvements as may be required by the director.

(c)

Following execution of the sanitary sewer extension agreement and prior to commencing construction or installation of any sanitary sewer system improvements, each applicant shall procure a public improvement permit from the city. Application for such permit shall be made to the public works department on forms provided by the director of public works.

(d)

At the time of filing the permit application, each applicant shall pay a public improvement permit fee. Such fee shall be promulgated by the director of public works in accordance with the provisions of section 2-587 of this Code. The proceeds of such fee shall be used to defray the costs associated with the inspection and acceptance of public sanitary sewer extensions and related structures and facilities. In addition to such fee, any person requesting inspection of a public sanitary sewer at any time other than normal city business hours shall reimburse the city for all reasonable costs expended in making such inspection.

(e)

Contractors responsible for construction or installation shall comply with the licensing, permitting, and bonding requirements set forth in article V of chapter 126 of this Code.

(f)

No person may enter into a sanitary sewer extension agreement or be issued a public improvement permit, nor may any contractor be allowed to perform work under any such agreement or permit when such person or contractor has failed to diligently complete and discharge his or her performance and warranty obligations under a prior agreement or permit.

(g)

All fees collected pursuant to this section shall be credited to and deposited in an account of the public works department in the general fund.

(h)

It shall be the responsibility of the applicant or the developer of the subject property to obtain any required permits for section 404 of the Clean Water Act, and all other required state and federal permits for the construction, placement or installation of the proposed facilities.

(Code 1979, § 39-102; Ord. No. 99-84, § 3, 11-29-99; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-262. Building sewers and connections.

(a)

*Permit required.* It shall be unlawful for any person to uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city. Any plumber, journeyman or other authorized person who shall make a connection with any pipe leading from any public sewer to any premises for the purposes of connecting the sanitary sewer system of any residential, commercial or industrial structure to the sanitary sewer system of the city, without first having procured a permit therefor, shall be in violation of this article and punished as provided for in section 138-257.

(b)

*Classes of permits.* There shall be two classes of permits as follows:

(1)

For residential and commercial services.

(2)

For service to establishments producing industrial wastes.

(c)

*Application; fee.* For either class of permit, the owner or his or her agent shall make application on a special form furnished by the city. Application shall be made to the building division of the development services department for a building permit, which permit shall include the building sewer system and that portion of the building sewer service line located within five feet of the building perimeter. Application shall be made to the director of public works for a public improvement permit for that portion of the building sewer service line extending from five feet outside of the building perimeter to the public sewer connection. The permit applications shall be supplemented by any plans, specifications or other information requested by the city. At the time of filing the public improvement permit application, each applicant shall pay a permit fee. Such fee shall be promulgated by the director of public works in accordance with the provisions of section 2-587 of this Code. The proceeds of such fee shall be used to defray the costs associated with inspections and plan reviews for building sewers and connections to the sanitary sewer system of the city.

(d)

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

(e)

*Separate sewer for each building.* A separate and independent building sewer shall be provided for every building. Except when one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer or in the case of multifamily or commercial complexes where such sewer line may be designed as part of a private internal sewer system.

(f)

*Existing sewers.* Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the director of water or his or her designee, to meet all requirements of this article.

(g)

*Construction requirements.* The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes or applicable rules and regulations of the city.

(h)

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

(i)

*Runoff drain connections prohibited.* It shall be unlawful for any person to connect roof downspouts, exterior foundation drains, areaway drains, sump pumps or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Swimming pool drains, other than backwash, shall not connect to the sanitary sewer except when authorized in writing by the director of water.

(j)

*Connection specifications.* The connection of the building sewer to the public sewer shall conform to the specifications and regulations of the city. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the director of water before installation.

(k)

*Inspection.* The applicant for the building and public improvement permits shall notify the public works department when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of an authorized representative of the public works department.

(l)

*Excavations.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(m)

*Service line.*

(1)

The owner of any building connected to the public sewer system shall retain ownership and be responsible for all maintenance and repair of the service line and all appurtenances thereto from the building served to the tap connection, including any tapping saddle on the public sewer main.

(2)

The owner shall maintain the service line in a structurally sound and intact condition and shall repair or replace, at owner's expense, any portion of the service line which, in the opinion of the director of water, has become so damaged or disintegrated as to no longer convey waste flow from the building served to the public sewer system or that permits excessive infiltration of groundwater or exfiltration of wastewater. The owner shall complete such repair or replacement within the time period given by the director. The director shall establish the time to be allowed for such repair or replacement based on any statutory or regulatory requirements and the present or potential harm or risk associated with the current condition and the nature of the repair required,

(3)

The city reserves the right, at the discretion of the director of water and at city expense, to make repairs or modifications to any portion of the service line located in public property or the public right-of-way when such repairs or modifications serve the operational efficiency of the public sewer system.

(4)

The director of water is authorized to suspend water service to a building to facilitate the reduction or elimination of wastewater flow when the director finds that the use of the service line or other building sewer components, in their present condition endanger the public sewer system, public or private property, the environment, or the health or safety of occupants or the public. The building owner and occupants shall be given written notice of such suspension. Notice shall include the reason(s) for the suspension and the corrective action(s) that must be taken prior resumption of water service. Monthly service charges will continue to accrue during such suspension.

(Code 1979, § 39-103; Ord. No. 95-53, exhibit A (§ 39-103), 9-11-95; Ord. No. 99-84, § 4, 11-29-99; Ord. No. 2005-74, § 1, 10-10-2005; Ord. No. 2010-20, § 1, 6-7-2010)

Sec. 138-263. Use of public sewers.

(a)

*Rules and regulations.* It shall be the responsibility of the director of water to formulate rules and regulations governing the discharge of wastewater to the POTW consistent with this article.

(b)

*Discharge of drainage and unpolluted waters.* It shall be unlawful for any person to discharge or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters into any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such drains which are specifically designated as storm drains or to a natural outlet approved by the director of water. Industrial cooling water or unpolluted process waters may be discharged, on approval of the director, to a storm sewer or natural outlet.

(c)

*Swimming pools.* Persons operating swimming pools which are connected directly or indirectly to the public sewer system shall drain those pools only in accordance with the drainage schedule established by the director of water. Such persons shall also notify the director of water at least 24 hours before draining their pools.

(d)

*General discharge prohibitions.*

(1)

No person shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which interferes with the operation or performance of the POTW.

(2)

No person shall contribute the following substances to the POTW:

a.

Any liquids, solids or gases which by reason of their nature or quantity are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

b.

Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as but not limited to grease, garbage with particles greater than one-half inch in any dimension, animal entrails or tissues, paunch manure, bones, hair, hides or fleshings, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

c.

Any wastewater containing toxic pollutants, hazardous wastes as defined by the Resource Conservation and Recovery Act, whether or not they are considered to be hazardous after entering the POTW, or poisonous substances in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in a categorical standard.

d.

Sewage of such a nature and delivered at such a rate as to impair the hydraulic capacity of the system, or any part thereof; normal and reasonable wear and usage excepted.

e.

Sewage of such a quantity, quality, or other nature as to impair the strength or the durability of the sewer structures, equipment or treatment works, either by chemical or by mechanical action.

f.

Any night soil or septic tank pumpage, except by permit in writing from the director of water at such points and under such conditions as the director may stipulate in each permit.

g.

Sludge or other material from sewage or industrial waste treatment plants or from water treatment plants, except when authorized by the director of water.

h.

Water which has been used for cooling or heat transfer purposes without recirculation, discharged from any system of condensation, air conditioning, refrigeration, or similar use.

i.

Water accumulated in excavations or accumulated as the result of grading, water taken from the ground by well points, or any other drainage associated with construction.

j.

Any water or wastes containing grease or oil or other substances that will solidify or become discernibly viscous within a temperature range set forth in the rules and regulations promulgated by the director of water.

k.

Any wastes that contain a corrosive, noxious, or malodorous material or substance which, either singly or by reaction with other wastes, are capable of causing damage to the system or to any part thereof, of creating a public nuisance or hazard, or of preventing entry into the sewers for maintenance and repair.

l.

Any wastes which are unusual in composition, i.e., contain an extremely large amount of suspended solids or BOD; are high in dissolved solids such as sodium chloride, calcium chloride, or sodium sulfate; contain substances conducive to creating tastes or odors in drinking water supplies; otherwise make such waters unpalatable even after conventional water purification treatment; or are in any other way extremely unusual unless the director of water determines that such wastes may be admitted to the system or shall be modified or treated before being so admitted.

m.

Any wastes that contain excessive, as determined by the director of water, dye waste or others that are either highly colored or could become highly colored by reacting with any other wastes.

n.

Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation processes. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Resource Conservation and Recovery Act, the Clean Air Act, the Toxic Substances Control Act, the Marine Protection, Research and Sanctuary Act, or more stringent state or local criteria, guidelines, or regulations applicable to the sludge management method being used.

o.

Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.

p.

Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater containing heat or capable of creating heat in such amounts that the temperature at the introduction into the POTW treatment plant exceeds 40 degrees Celsius (104 degrees Fahrenheit).

q.

Any pollutants, including oxygen demanding pollutants (BOD), etc., released at a flow rate and/or pollutant concentration which will cause pass through or interference. In no case shall a slug discharge have a flow rate or contain concentrations or qualities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities, or flow during normal operation.

r.

Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the director of water in compliance with applicable metro district, state or federal regulations.

(3)

The prohibitions in subsection (d)(2) of this section shall apply to all users of the POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(4)

When the director of water determines that a user is contributing any of the enumerated substances in subsection (d)(2) of this section or others not enumerated to the POTW in such amounts as to interfere with the operation of the POTW, the director shall:

a.

Advise the user of the impact of the contribution on the POTW; and

b.

Develop effluent limitations for such user to correct the interference with the POTW.

(5)

If any user violates this subsection, nothing in this subsection shall limit the authority of the director of water to seek enforcement of this subsection against the user pursuant to section 138-293.

(e)

*National categorical pretreatment standards.* Upon the promulgation of a national categorical pretreatment standard for a particular industrial subcategory, if more stringent limitations than those imposed under this article for sources in particular subcategory are promulgated, the national standard shall immediately supersede the limitations imposed under this article. The director shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.

(f)

*Specific pollutant discharge standards.* Specific pollutant discharge standards are to be set forth by the director of water in the rules and regulations governing pollutant discharge and wastewater control.

(g)

*State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

(h)

*City's right of revision.* The city reserves the right to establish more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in section 138-258.

(i)

*Excessive discharge.* No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or in any other pollutant specific limitation developed by the city or state.

(j)

*Accidental discharges.* Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review and shall be approved by the city before construction of the facility. All existing users shall complete such a plan by July 1, 1983. No user who commences contribution to the POTW after the effective date of this division shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this article. In the case of any accidental or unusual discharge, the user shall immediately telephone and notify the city and the metro district of the incident. The notification shall include the location, type, concentration, and volume of discharge, and corrective actions.

(k)

*Written notice.* Within five days following an accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(l)

*Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call if an accidental discharge occurs. Employers shall ensure that all employees, who may cause or suffer such an accidental discharge to occur, are advised of the emergency notification procedure.

(Code 1979, § 39-104; Ord. No. 2005-74, § 1, 10-10-2005)

**Secs. 138-264—138-290. Reserved**

**DIVISION 2**

Sec. 138-291. Commercial and industrial wastewater discharge permits.

(a)

*Questionnaires and permits required.* Commercial and industrial wastewater discharge questionnaires and permits are required as follows:

(1)

All commercial and industrial users contributing to or proposing to connect to or discharge to or change the nature or amount of discharge to the POTW shall provide to the city, in the form of a questionnaire prescribed by the city, the following information, in units and terms appropriate for evaluation:

a.

The user's name, mailing address, and the address or location of the user's plant or facility, if different from the mailing address.

b.

A description of the activities, facilities and processes that are located or conducted on the user's premises, and a list of all raw materials used.

c.

Depending on the types of activities, facilities, or processes used, the following additional information:

1.

The user's SIC number, according to the Standard Industrial Classification Manual, Bureau of the Budget, 1987, as amended, or NAICS Code, according to the National American Industry Classification System.

2.

Times and durations of wastewater discharges from each process.

3.

Average daily wastewater flow rates from each process, including daily, monthly and seasonal variations, if any.

4.

Site plan, floor plans, mechanical and plumbing plans and details showing all sewers, sewer connections and appurtenances by size, location and elevation.

5.

A complete list of all materials which are or could be discharged by the user.

6.

All other information as reasonably may be needed to adequately evaluate the potential for harm from the user's discharges to receiving streams or to the sewer systems of the city or the metro district.

(2)

All commercial users contributing to or proposing to connect to or discharge to or to change the nature or amount of discharge to the POTW shall apply for a commercial wastewater discharge permit from the city before connecting to or discharging to the POTW. The "issuing authority" with respect to commercial wastewater discharge permits, shall be the city's director of water.

(3)

All significant industrial users contributing to or proposing to connect to or discharge to the POTW shall obtain an industrial wastewater discharge permit from the metro district before connecting to or discharging to the POTW. The "issuing authority" with respect to industrial wastewater discharge permits shall be the metro district. All industrial wastewater discharge permits shall conform to the metro district's rules and regulations governing the operation, use and services of the system, as amended (the "metro district's rules and regulations") and any rules and regulations as may be issued by the director of water.

(b)

*Permit application.* All users required to obtain a commercial or industrial wastewater discharge permit shall complete and file with the appropriate issuing authority an application in the form prescribed by the issuing authority. Depending on the types of activities, facilities, or processes used, in support of the application the user shall be prepared to submit, in addition to the information listed in subsection (a)(1) of this section, the following information in units and terms appropriate for evaluation:

(1)

Wastewater constituents and characteristics, including but not limited to those mentioned in [section 138-263](https://library.municode.com/HTML/10331/level4/PTIICOOR_CH138UT_ARTVIWACO_DIV1GE.html#PTIICOOR_CH138UT_ARTVIWACO_DIV1GE_S138-263USPUSE) or in any applicable state or national pretreatment standards or in the metro district's rules and regulations, as determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR 136, as amended.

(2)

A statement regarding whether or not the discharge standards contained in [section 138-263](https://library.municode.com/HTML/10331/level4/PTIICOOR_CH138UT_ARTVIWACO_DIV1GE.html#PTIICOOR_CH138UT_ARTVIWACO_DIV1GE_S138-263USPUSE) and applicable state or national pretreatment standards and the metro district's rules and regulations are being met on a consistent basis and, if not, whether additional O & M or additional pretreatment is required for the user to meet the applicable standards.

(3)

If additional pretreatment or O & M will be required to meet the pretreatment or discharge standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

a.

The schedule shall contain increments of progress, not to exceed nine months, in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment or discharge standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.).

b.

Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the director of water, including as a minimum whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the director of water.

(4)

Each product produced by type, amount, process or processes and rate of production.

(5)

Type and amount of raw materials processed (average and maximum per day).

(6)

Number and type of employees, and hours of operation of the plant and proposed or actual hours of operation of the pretreatment system.

(7)

Any other information as may be deemed by the issuing authority necessary to evaluate the permit application.

(c)

*Evaluation.* The issuing authority shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the issuing authority may issue a commercial or industrial wastewater discharge permit, as appropriate, subject to the terms and conditions provided in subsection (d) of this section and elsewhere in this article.

(d)

*Issuance.* The issuing authority shall issue the appropriate wastewater discharge permit to the applicant if all of the following conditions are met:

(1)

The proposed discharge of the applicant is in compliance with the prohibitions and limitations of [section 138-263](https://library.municode.com/HTML/10331/level4/PTIICOOR_CH138UT_ARTVIWACO_DIV1GE.html#PTIICOOR_CH138UT_ARTVIWACO_DIV1GE_S138-263USPUSE) and the rules and regulations issued pursuant thereto, and the metro district's rules and regulations;

(2)

The proposed discharge of the applicant would permit the normal and efficient operation of the wastewater treatment system; and

(3)

The proposed discharge of the applicant would not result in a violation by the city or the metro district of the terms and conditions of their respective CDPS/NPDES permits. If the issuing authority finds that the condition set out in subsection (d)(1) of this section is not met, the issuing authority may issue a commercial or industrial wastewater discharge permit, as appropriate, to the applicant if the conditions set out in subsections (d)(2) and (3) of this section are met and if the applicant submits and the issuing authority approves a schedule setting out the measures to be taken by the applicant and the dates that such measures will be implemented to ensure compliance with this article.

(e)

*Denial.* If an application for a wastewater discharge permit is denied, the issuing authority shall notify the applicant in writing of such denial. Such notification shall state the grounds for such denial with that degree of specificity which will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.

(f)

*Hearing.*

(1)

Upon receipt of notification of denial of a commercial wastewater discharge permit application, the applicant may request and shall be granted a hearing to be held by the director of water.

a.

At such hearing the applicant shall have the burden of establishing that the conditions set out in subsection (c) of this section have been met and that a permit should be issued. The director may conduct the hearing and take the evidence or may designate a representative to:

1.

Issue in the name of the director notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing.

2.

Take the evidence.

3.

Submit a report of the evidence and hearing, including transcripts and other evidence, to the director together with recommendations for action thereon.

b.

Testimony taken on any public hearing shall be under oath and recorded stenographically. The transcript as recorded shall be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

c.

Upon review of the evidence, the director shall make written findings of fact and may issue a wastewater discharge permit or direct that such permit shall not be issued or give such other or further orders and directives as are necessary and appropriate.

d.

Any party to the hearing aggrieved or adversely affected by an order of the director may appeal such order to the district court of the 17th or 18th judicial district of the state, pursuant to rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(2)

An applicant denied an industrial wastewater discharge permit may request that the manager of the metro district review the application and issue the permit. If the district's manager affirms the denial, the applicant may appeal the denial pursuant to the procedures set forth in sections 1.2 and 6.22.4 of the metro district's rules and regulations.

(g)

*Conditions.* Commercial and industrial wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the issuing authority. Permits may contain the following:

(1)

The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.

(2)

Limits on the average and maximum wastewater constituents and characteristics.

(3)

Limits on the average and maximum rate and time of discharge or requirements for flow regulation and equalization.

(4)

Requirements for installation and maintenance of inspection and sampling facilities.

(5)

Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedules.

(6)

Compliance schedules.

(7)

Requirements for submission of technical reports or discharge reports.

(8)

Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the issuing authority, and affording the city or the metro district access thereto for the purposes of reviewing and copying records.

(9)

Requirements for notification of the issuing authority of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.

(10)

Requirements for notification of slug discharges as per subsection 138-263(d)(2)q.

(11)

Other conditions as deemed appropriate by the issuing authority to ensure compliance with this article.

(h)

*Modifications.*

(1)

The terms and conditions of any wastewater discharge permit is subject to modification by the city or the metro district during the term of the permit as limitations or requirements as set forth in [section 138-263](https://library.municode.com/HTML/10331/level4/PTIICOOR_CH138UT_ARTVIWACO_DIV1GE.html#PTIICOOR_CH138UT_ARTVIWACO_DIV1GE_S138-263USPUSE) or the metro district's rules and regulations are modified or for other good cause. Users shall be informed of any proposed changes to their permits prior to the effective date of any change, and any such change or new condition shall allow a reasonable time for compliance.

(2)

Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standard shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for an industrial wastewater discharge permit as required by subsection (b) of this section, the user shall apply for such a permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to the issuing authority within 180 days after the promulgation of an applicable national categorical pretreatment standard the information required by subsections (b)(2) and (b)(3) of this section.

(i)

*Duration and reissuance.* Commercial wastewater discharge permits may be issued for a specified term or an indeterminate period of time. Industrial wastewater discharge permits shall be issued for a specified term not to exceed five years, and may be issued for a period less than a year or may be stated to expire on a specific date. Each user shall apply for permit reissuance at least 180 days prior to the expiration of the user's current commercial or industrial wastewater discharge permit.

(j)

*Transferability.* Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without prior notification to and approval by the appropriate issuing authority. A copy of the existing permit must be provided to the prospective transferee prior to such transfer.

(k)

*Violation.* It shall be unlawful for any user to violate or fail to comply with any condition of a wastewater discharge permit.

(Code 1979, § 39-105(a); Ord. No. 2000-26, § 1, 4-24-2000; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-292. Reporting requirements for permittee; pretreatment standards.

(a)

*Compliance date report.* Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any significant industrial user shall submit to the metro district a report indicating the nature and concentration of all pollutants in the discharge from the regulated processes which are limited by pretreatment standards and requirements, and the average and maximum daily flow for those process units in the user's facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the user and certified by a qualified professional engineer.

(b)

*Periodic compliance reports.*

(1)

Any significant industrial user after the date for final compliance with applicable pretreatment standards or, for a new source, after commencement of the discharge into the POTW shall submit to the metro district during the months of June and December, unless required more frequently in an applicable pretreatment standard or by the metro district, a report covering the preceding six months and indicating the nature and concentration of pollutants in the effluent which are limited by such applicable pretreatment standards or other standards enumerated in the industrial wastewater discharge permit. In addition, this report shall include a record of average and maximum daily flows for the reporting period for all regulated processes. At the discretion of the metro district and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the metro district may agree to alter the months during which the reports are to be submitted.

(2)

The metro district may impose mass limitations on users which are found to be using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the periodic compliance reports shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass, where requested by the metro district, of pollutants contained therein which are limited by the applicable pretreatment standards or requirements. All analyses shall be performed in accordance with procedures established by the administrator of the EPA pursuant to 33 USC 1314(g) of the Act and contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the administrator of the EPA. Sampling shall be performed in accordance with the techniques approved by the administrator of the EPA.

(3)

For users subject to equivalent mass or concentration limitations established by the city or the metro district in accordance with procedures established by the administrator of the EPA pursuant to 33 USC 1314(g) of the Act and contained in 40 CFR 403.6(c), as from time to time amended, compliance reports required by the user's respective permits shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production or other measure of operation, the report required by the user's discharge permit shall include the user's actual average production rate for the reporting period.

(c)

*Monitoring facilities.*

(1)

The city or the metro district may require any user to provide and operate, at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and internal drainage systems. The monitoring facility shall be situated on the user's premises but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(2)

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

(3)

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within a reasonable time as specified in written notification by the city or the metro district.

(d)

*Inspection and sampling.*

(1)

The city or the metro district may inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative or representatives of the metro district ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or records copying in the performance of any of their duties. The city, the metro district, the state department of public health and environment and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance and metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the city, the metro district, the state department of public health and environment and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(2)

The director of water or the metro district shall designate wastewater control inspectors to monitor and inspect establishments connected to the public sewer system.

(e)

*Pretreatment.*

(1)

Users shall provide necessary wastewater pretreatment as required to comply with this article and shall achieve compliance with all national categorical pretreatment standards, where required, within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city and the metro district. Any facilities of significant industrial users required to pretreat wastewater to a level acceptable to the metro district shall be provided, operated and maintained at the user's expense. Detailed plans shall be submitted to the metro district for review and shall be acceptable to the metro district before construction of the system. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the metro district.

(2)

The metro district shall annually publish, in a local newspaper of general circulation, a list of the users that were in significant noncompliance with any pretreatment requirements or standards or permit requirements at least once during the 12 previous months. Reasons for a user to be considered in significant noncompliance shall include but are not limited to:

a.

Chronic violations of wastewater discharge limits, in which 66 percent or more of all the measurements taken during any six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

b.

Technical review criteria (TRC) violations, in which 33 percent or more of all the measurements for each pollutant parameter taken during any six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC, which applicable TRC shall equal one and four-tenths (1.4) for BOD, TSS, and oil and grease, and one and two-tenths (1.2) for all other pollutants except PH.

c.

Any other violation of a pretreatment effluent limit that the metro district determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public.

d.

Any discharge of a pollutant that has caused imminent endangerment to human health or welfare or to the environment or has resulted in the metro district's or the city's exercise of their emergency authority to halt or prevent such a discharge.

e.

Failure to accurately report noncompliance.

f.

Failure to submit required reports within 30 days of their due dates.

g.

Failure to meet, within 90 days after the schedule date, a compliance schedule milestone.

h.

Any other violation or group of violations that the metro district determines will adversely affect the operation or implementation of the local pretreatment program.

(3)

All records relating to compliance with pretreatment standards shall be made available to officials of the city, the metro district, EPA or the approval authority upon request.

(f)

*Confidential information.*

(1)

Information and data on a user obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or any governmental agency without restriction unless, at the time of its submittal to the city or the metro district, the user specifically requests otherwise and is able to demonstrate to the satisfaction of the city or the metro district that the release of such material would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Information or data for which the user requests confidentiality must be plainly labeled "confidential."

(2)

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this article, the national pollutant discharge elimination system (NPDES) permit and the pretreatment program; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(Code 1979, § 39-105(b); Ord. No. 2000-26, § 2, 4-24-2000)

Sec. 138-293. Harmful contributions.

(a)

The director of water may suspend the wastewater treatment service and wastewater discharge permit when such suspension is necessary, in the opinion of the director or the metro district, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, which causes or may cause interference to the POTW, or which causes or may cause the city or the metro district to violate any condition of their respective NPDES permits.

(b)

Any person notified of a suspension of the wastewater treatment service or the wastewater discharge permit shall immediately stop or eliminate the contribution. If a person fails to comply voluntarily with the suspension order, the director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the director within five days of the date of occurrence.

(Code 1979, § 39-106(a); Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-294. Revocation of permit.

Any user who violates any conditions of this article or applicable state and federal regulations is subject to having his or her wastewater discharge permit revoked. Grounds for permit revocation include but are not limited to:

(1)

Failure of a user to factually report the wastewater constituents and characteristics of his or her discharge;

(2)

Failure of the user to report significant changes in operations or wastewater constituents and characteristics;

(3)

Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring, or reviewing or copying records; or

(4)

Violation of any condition of the wastewater discharge permit.

(Code 1979, § 39-106(b))

Sec. 138-295. Notification of violation.

Whenever the city finds that any user has violated or is violating any provision of this article, any rule or regulation promulgated under this article or any prohibition, limitation, or requirement of his or her wastewater discharge permit, the director may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted by the user to the director.

(Code 1979, § 39-106(c))

Sec. 138-296. Show cause hearing.

(a)

Under this article, upon a finding by the director that a person has caused or permitted an unauthorized discharge or that any such unauthorized discharge has not been corrected by timely compliance with a correction schedule, whether with or without a meeting with the director, the director may order any person who causes or allows such unauthorized discharge to show cause why an enforcement action should not be taken. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the director regarding the violation, the proposed enforcement action and directing the offending party to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by certified mail at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

(b)

The director may conduct the hearing and take evidence or may designate a representative to:

(1)

Issue notices of hearings requesting the attendance and testimony of witnesses and the production of any evidence relevant to any matter involved in any such hearings.

(2)

Take the evidence.

(3)

Submit a report of the evidence and hearing to the director, including transcripts and other evidence, together with recommendations for action thereon.

(c)

At any public hearing, testimony taken before the hearing authority or any person designated by it shall be under oath and recorded stenographically. The transcript so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

(d)

Upon review of the evidence, the director shall make written findings of fact and may:

(1)

Issue an order stating that no unauthorized discharge has occurred and directing that service shall not be terminated therefor;

(2)

Issue an order stating that an unauthorized discharge has occurred and direct that following a specified time period, the wastewater treatment service of the offending party be discontinued unless:

a.

Adequate treatment facilities, devices or other appurtenances shall have been installed; or

b.

Existing treatment facilities devices or other appurtenances are properly operated or maintained; or

(3)

Issue such other or further orders and directives as are necessary and appropriate.

(e)

Any party to the hearing aggrieved or adversely affected by an order of the director may appeal such order to the district court of the 17th or 18th judicial district of the state, pursuant to rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(Code 1979, § 39-106(d))

Sec. 138-297. Legal action.

If any person discharges sewage, industrial wastes or other wastes or similar substances into the POTW contrary to any provision of this article, any order, rule, regulation, or permit issued under this article or any federal or state pretreatment standards or requirements, the director of water, in addition to any other remedies or actions, may:

(1)

Direct the city attorney to commence an action for appropriate legal and equitable relief in any county or district court having jurisdiction of the subject matter of the action and the amount, if any, sought to be collected; and

(2)

Institute criminal proceedings in the municipal court in and for the city through the issuance of a municipal summons and complaint to the offending party pursuant to the authority granted him or her by [section 50-30](https://library.municode.com/HTML/10331/level4/PTIICOOR_CH50CO_ARTIIMUCO_DIV1GE.html#PTIICOOR_CH50CO_ARTIIMUCO_DIV1GE_S50-30ISSESUCOPR) of this Code.

(Code 1979, § 39-106(e); Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-298. Falsifying information.

It is unlawful for any person to knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this article or any wastewater discharge permit, or to knowingly falsify, tamper with, or render inaccurate any monitoring device or method required under this article.

(Code 1979, § 39-108)

Sec. 138-299. Delegation of authority.

The metro district shall have full authority to act and perform such functions as are provided for in article IV of the service contract between the city and the metro district and in section 6 of the metro district's rules and regulations.

(Code 1979, § 39-109; Ord. No. 2000-26, § 3, 4-24-2000)

**Secs. 138-300—138-325. Reserved.**

**DIVISION 3**

Sec. 138-326. Service connection fee.

(a)

A service connection fee for the privilege of tapping or connecting to the sanitary sewer system of the city is established and imposed, which fee shall be payable as follows:

(1)

Multifamily master-metered single-family attached, single-family detached, individually-metered single-family attached, commercial and industrial users shall be charged a service connection fee in accordance with the following schedule:

Applicable to fees paid on or after January 1, 2013:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Water Tap Size Inches | Single-Family Detached | Single-Family Attached | Multifamily | Commercial and Industrial |
| N/A |  | $1,320.00per unit | $1,224.00per unit |  |
| 5/8 | $2,400.00 |  |  | $4,560.00 |
| ¾ | 2,400.00 |  |  | 4,560.00 |
| 1 | 2,400.00 |  |  | 10,800.00 |
| 1½ |  |  |  | 26,400.00 |
| 2 |  |  |  | 48,000.00 |
| 3 |  |  |  | 100,800.00 |
| 4 |  |  |  | 182,400.00 |
| 6 and larger |  |  |  | \* |

\* Ratios for six-inch and larger meters are based on a formula utilizing flow, BOD, TSS, and TKN values; see Metro Wastewater Reclamation District Study, attachment page 2.

(2)

Whenever, with regard to any real property for which a sanitary sewer service connection fee has been paid to the city, a water meter is replaced by the installation of a larger water meter, an additional fee shall be payable. Said fee shall be calculated by subtracting the amount of the current sanitary sewer service connection fee based on the size of the replaced water meter from the amount of the current sanitary sewer service connection fee based on the size of the replacement water meter. No alteration in or expansion of the use of any real property for which property a sanitary sewer service connection fee has been paid to the city shall necessitate the payment of an additional or new sanitary sewer service connection fee, unless such alteration or expansion requires the installation of a larger water meter.

(3)

Any aggrieved commercial or industrial user may present facts regarding the use of their property which demonstrate the lack of a reasonable correlation between the size of their water tap and their demands upon the sewer system. Such facts shall be presented to the director of water, who may reduce the amount of the service connection fee payable under this section in order to mitigate those situations that would otherwise result in gross unfairness. An informal hearing may be held for the purpose of appealing the decision of the director of water to the city manager or designee, who shall render a decision based upon the standard of mitigating those situations that would otherwise result in gross unfairness, and whose decision is final.

(4)

Whenever a contract is approved for the acceptance of sanitary sewer discharge from sources arising outside of the city limits, such contract, in addition to the regular service connection fee, shall also contain a provision for the payment to the city of not less than 15 percent of the current service connection fee of the city for each tap added to the system generating sewage flows outside of the city after the execution of the agreement.

(5)

For purposes of this section, the following terms shall have the same meaning ascribed to them as in section 138-221: "single-family detached," "single-family attached," "multifamily," "commercial," and "industrial" user. For purposes of this section, the term "water tap" shall not include irrigation water taps.

(b)

Payment of the service connection fee shall be made no earlier than at the time of issuance of the building permit and no later than the date upon which application is made for a certificate of occupancy for the property connecting to the city sanitary sewer system. In any event, payment of such fee shall be a prerequisite to the issuance of a certificate of occupancy. The amount of such fee shall be calculated according to the fee schedule in effect at the time payment is made. If the building permit is canceled or expires, credit for the service connection fees already paid to the city will be applied toward the fee schedule in effect at the time the new building permit is issued. Upon request of the service connection applicant, and in the city manager's sole discretion, the city manager may authorize the application of funds previously paid for service connection fees for one property to service connection fees for a substitute property, provided that either properties have the same ownership or the owner of the property where the credit was originally applied provides to the city a request for the transfer and a written release of any claim to the previously paid funds. Such transfer may only occur after the issuance of a building permit for the substitute property. Payment of any deficiency between the transferred funds amount and the fee amount in effect at the time the payment is made will be required prior to issuance of a certificate of occupancy. Such transfer may only be approved when the city manager, in consultation with Aurora Water, determines that such transfer is consistent with the operational efficiency of the utility system. This authorization does not grant authority to reduce, waive, defer, or assume water service connection fees.

(Code 1979, § 39-115; Ord. No. 96-70, § 1, 12-30-96; Ord. No. 2000-139, § 2, 12-18-2000; Ord. No. 2002-65, § 2, 11-18-2002; Ord. No. 2003-04, § 2, 1-27-2003; Ord. No. 2005-02, § 2, 2-7-2005; Ord. No. 2005-74, § 1, 10-10-2005; Ord. No. 2006-16, § 1, 3-20-2006; Ord. No. 2006-65, § 3, 11-13-2006; Ord. No. 2009-15, § 2, 4-13-2009; Ord. No. 2010-38, § 1, 9-8-2010; Ord. No. 2011-36, § 2, 11-14-2011; Ord. No. 2012-43, § 1, 10-29-2012)

Sec. 138-327. Sewer rates.

(a)

There is levied and assessed upon each lot, parcel of land, building or premises situated within the city limits which is connected to the city sanitary sewer system a charge as follows:

(1)

Single-family detached, single-family attached, multifamily, commercial and industrial users shall be assessed, on a monthly basis, a service charge and a volume charge as follows:

a.

The monthly service charge shall be based upon the size of the water meter servicing the user. This charge shall be assessed as follows:

Meter Size (Inches)     Monthly Service Charge Inside City Effective January 1, 2014

5/8 and ¾ .....$3.52

1 and 1½ .....8.36

1½ .....17.57

2 .....28.09

3 .....61.52

4 .....175.81

6 & 8 .....351.64

b.

The monthly volume charge shall be calculated as follows:

1.

The volume charge shall be assessed at the rate of $ 3.23 effective January 1, 2014 per 1,000 gallons of wastewater discharged into the city sanitary sewer system by the user. This charge shall be based upon the user's average monthly water consumption computed from meter readings taken during the winter period. For purposes of this section, the term "winter period" and the method of computing average monthly water consumption shall be defined annually in rules and regulations promulgated by the director of water.

(Code 1979, § 39-116; Ord. No. 2002-13, § 3, 3-18-2002; Ord. No. 2002-69, § 3, 11-18-2002; Ord. No. 2005-10, § 2, 3-21-2005; Ord. No. 2005-74, § 1, 10-10-2005; Ord. No. 2006-16, § 2, 3-20-2006; Ord. No. 2006-65, § 4, 11-13-2006; Ord. No. 2008-61, § 3, 11-24-2008; Ord. No. 2009-48, § 1, 11-16-2009; Ord. No. 2010-38, § 2, 9-8-2010; Ord. No. 2011-36, § 3, 11-14-2011; Ord. No. 2012-43, § 2, 10-29-2012; [Ord. No. 2013-35, § 1, 10-28-2013, eff. 11-30-2013](http://newords.municode.com/readordinance.aspx?ordinanceid=624094&datasource=ordbank) )

Sec. 138-328. Disposition of fees.

(a)

All sanitary sewer development, connection, and service fees paid to the city pursuant to this Code shall be segregated, credited to and deposited in the sanitary sewer account of the sewer fund of the utility enterprise and shall be used for the construction, installation, operation, maintenance, replacement, extension, and improvement of the sanitary sewer system and for all lawful activities associated therewith as may be directed by the city council. Such fund may also be used for the acquisition of land necessary for the construction and installation of sanitary sewer facilities.

(b)

Notwithstanding any provision of this section to the contrary, the utility enterprise may pledge the proceeds of such fees to the retirement of the principal and interest of revenue bonds or other obligations issued by the enterprise or general obligation bonds issued by the city for the purpose of financing the construction, installation, replacement, extension or improvement of both sanitary sewer and storm drainage facilities.

(c)

Appropriations for capital projects from the sanitary sewer account within the sewer fund shall not lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned, provided that any project shall be deemed to have been abandoned if three fiscal years elapse without an expenditure from or encumbrance of the appropriation for such project.

(Code 1979, § 39-117; Ord. No. 99-84, § 5, 11-29-99)

Sec. 138-329. Collections by county treasurer.

The city council finds and determines that the policy of the city is that all sewer services provided by the city or the Metro Wastewater Reclamation District shall be deemed to be provided to the real property so served without regard to the actual person billed for such services. All unpaid fees, rates and connection charges for sewer services are declared to be delinquent from and after 75 days after the billing therefor and there is declared to be a lien on the real property so served in the amount of all unpaid fees and rates including an administrative fee not to exceed ten percent of the total amount of unpaid fees and rates. All liens created by this section shall relate back to the time sewer services were provided to the real property. The city clerk is authorized and empowered to certify to the treasurer of the proper county the legal description of the property so served and the amount of the delinquent fees attributable to the property. Certification of the unpaid fees and rates to the county treasurer shall serve as notice to the property owner of said delinquency. The lien created by this section of the code shall be a first lien upon the subject property and shall be superior to all other liens, or claims against such property of whatever kind or nature regardless of the date except any lien for general property taxes or special improvement district assessments. Upon receipt of said certification, the county treasurer shall proceed to collect such unpaid fees and rates generated in the same manner as general property taxes.

(Code 1979, § 39-118; Ord. No. 96-28, § 3, 7-22-96)

Sec. 138-330. Metro Wastewater Reclamation District sewer connection charge.

(a)

In addition to collecting the sewer service connection fee set forth in section 138-326, the city shall act as agent for the Metro Wastewater Reclamation District in collecting that entity's sewer connection charge (referred to in this section as the "connection charge"). The connection charge for each single-family residential equivalent, to be paid to the city, shall be the charge as determined by the Metro Wastewater Reclamation District. The charge shall apply to all new or altered connections to the city sanitary sewer system.

(b)

If an area not presently served by either the city sanitary sewer system or the sewage facilities of other members of the Metro Wastewater Reclamation District is connected directly or indirectly to the city sanitary sewer system, the connection charge shall apply for each individual "single-family residential equivalent" connection existing in the area at the time of connection to the city sanitary sewer system.

(c)

The connection charge will be determined directly for single-family residential units and by the installed water service connection size for multifamily and nonresidential connections. The number of "single-family residential equivalent" connections shall be determined as follows:

(1)

A "single-family residential equivalent" is equal to one single-family unit which means a building or structure used or designated to be used as only one residential unit, including single-family detached dwellings and mobile homes; each residential unit in a duplex; and each individually metered residential unit in multifamily buildings or structures. The term "residential unit" means a room or group of rooms which includes or is designed to include kitchen and bathroom facilities and in which one or more persons could reasonably reside on a permanent and nontransient basis.

Single-Family Residential
Equivalent Connection

1.0

(2)

The term "multifamily property" includes any building or structure, or portion thereof, which contains three or more residential units served by master-metered water service:

|  |  |
| --- | --- |
| Water ServiceTap Size(inches) | Single-FamilyResidential EquivalentConnection |
|   5/8 and ¾ |   1.9 |
|  1 |   4.5 |
|  1¼ and 1½ | 11  |
|  2 |  20  |
|  3 |  42  |
|  4 |  76  |
|  6 or larger | \*  |

\* SFRE connections for six inch and larger are based on a formula in accordance with current Metro Wastewater Reclamation District guidelines.

(3)

The term "nonresidential property" includes any building or structure, or portion thereof, which is not a single-family dwelling or other residential unit:

|  |  |
| --- | --- |
| Water ServiceTap Size(inches) | Single-FamilyResidential EquivalentConnection |
|   5/8 and ¾ |   1.9 |
|  1 |   4.5 |
|  1¼ and 1½ |  11  |
|  2 |  20  |
|  3 |  42  |
|  4 |  76  |
|  6 or larger | \*  |

\* SFRE connections for six inch and larger are based on a formula in accordance with current Metro Wastewater Reclamation District guidelines.

(4)

Where a building or structure is served by more than one water service connection, the single-family residential equivalent connection shall be the sum of the equivalents of each such connection. Where a building or structure has more than one sanitary sewer service connection, the connection charge shall be determined by the water service connection size serving such building or structure.

(5)

Water service connections installed and used solely for fire protection purposes, such as fire hydrant branches, fire sprinkler systems, standpipes, etc., irrigation purposes, or for other purposes which do not discharge into the city sewer system are excluded from the assignment of single-family residential equivalents and payment of the connection charge.

(6)

For any new or altered water service connection where water is supplied, either in whole or in part, by any source that will not have a water service connection to the city water system, the "single-family residential equivalent" connection will be assigned on the basis of a water service connection size that such a customer would normally require if connecting exclusively to the city water system. The city reserves the right to modify the assigned water service connection size based upon the facts and circumstances of each individual application and case.

(7)

For nonresidential connections where the water service connection size is greater than three-fourths inch, a reduction in the assignment of the "single-family residential equivalent" connection may be granted where it can be demonstrated to the satisfaction of the city that sewage flow discharges will be significantly less than the sewage normally discharged from such a connection. Applications for such reductions will be made to the city which shall approve or disapprove the reduction. In no event shall a reduction in the assignment of the "single-family residential equivalent" connection, on the basis provided in this section, exceed the next smaller size of water service connection. Partial service connection size reductions shall not be granted. For customers requesting a reduction which would exceed the next smaller service connection size, the provisions of subsection (c)(5) of this section, allowing separate irrigation or other taps, would apply. The Metro Wastewater Reclamation District shall have the right to affirm or modify any reductions in the assignment of "single-family residential equivalent" connections which have been approved by the city based upon the facts and circumstances of each individual application and case.

(d)

The city council declares that assisting the owners of residential properties within the city which are not connected to the sanitary sewer system of the Metro Wastewater Reclamation District with the financial burden of making such connections serves the public interest by encouraging the use of a safe and reliable means of wastewater disposal by all city residents. Therefore, upon application by the owner of any residential property located within the city which is served by a nonmunicipal waste disposal system approved pursuant to section 138-260, the director of water or the director's designee shall defer payment of all fees associated with the connection of such property to the Metro Wastewater Reclamation District sanitary sewer system. An interest rate of five percent per annum shall be charged on each deferral, with payment of all fees and the interest thereon to occur at such time as title to the property is transferred or five years from the date the deferral is granted, whichever is earlier. Upon request, the owner may enter into an agreement to make monthly payments of fees and interest, upon such terms and conditions as the director may authorize; provided, however, that the term of such agreement shall not exceed five years from the date the deferral is granted. As security for payment, a lien shall be placed on the property at the time the deferral is granted. Any failure of the owner to make payment when due shall result in the immediate certification of all unpaid amounts for collection to the treasurer of the county in which such property is located. This subsection shall apply only to those residential properties which have been developed as of January 1, 1995.

(Code 1979, § 39-119; Ord. No. 2002-13, § 4, 3-18-2002; Ord. No. 2002-68, § 1, 11-18-2002; Ord. No. 2005-74, § 1, 10-10-2005)

**Secs. 138-331—138-360. Reserved.**

**ARTICLE 7 – STORM DRAINAGE**

**DIVISION 1**

Sec. 138-361. 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:

*Drainage basin development fee* means the per-acre fee levied and assessed upon each vacant and undeveloped lot and parcel of land within the city for the purpose of funding the construction and installation of major facilities in accordance with the drainage master plan.

*Drainage basin plans* means those plans which describe flood control and storm drainage channels, structures, sewers and facilities for conveyance, control or storage of stormwater in individual drainage basins. Upon approval by the director of water, such plans shall become detailed subsections of the drainage master plan.

*Drainage facilities* means all manmade structures or natural watercourses owned, operated or maintained by the city which are used for the conveyance, control or storage of stormwater arising within the city limits or within drainage basins which discharge into the city limits.

(1)

*Major facilities* means those drainage facilities identified in the drainage master plan which provide for the conveyance or detention of stormwater from areas equal to or greater than 160 acres. Examples of major facilities include but are not limited to stream channels, grade control structures, and regional detention ponds.

(2)

*Minor facilities* means those drainage facilities which provide for the conveyance or detention of stormwater from areas of less than 160 acres. Examples of minor facilities include but are not limited to storm sewers, overflow tracts, and drainage ditches.

*Drainage master plan* means the overall plan developed by the director of water which addresses various matters relating to storm drainage within the city, including the identification of drainage and flooding problems, the compilation of base data related to rainfall and runoff, proposals for controlling stormwater flows, and cost control measures regarding the construction, operation and maintenance of drainage facilities. Such plan shall identify the principal features of the storm drainage system and shall consist of approved drainage basin plans, drainage basin maps, basic drainage concepts and related calculations, and any other items deemed appropriate by the director of water.

*Monthly usage fee* means the monthly fee imposed on each and every lot or parcel of land within the city to pay for the operation, maintenance, improvement, and replacement of drainage facilities.

*Storm drainage system* means all drainage facilities owned, operated or maintained by the city which are used for the conveyance, control or storage of stormwater to, through and from drainage areas to points of final outlet, including but not limited to any and all of the following: conduits, canals, ditches, channels, streams, gulches, gullies, flumes, culverts, streets, curbs, gutters, catchbasins, detention and retention ponds, siphons, bridges, pump stations, and all features appurtenant thereto.

*Subdivider* means the owner or developer of a subdivision or any other lot or parcel of land proposed for development.

(Code 1979, § 17-17; Ord. No. 2005-74, § 1, 10-10-2005)

**Cross reference—** Definitions generally, § 1-2.

Sec. 138-362. Liability.

Large floods from stormwater runoff may occasionally occur which exceed the prudent design capacity of the drainage facilities constructed or maintained by funds made available under this article. This article does not imply that the real property liable for the drainage basin development and monthly usage fees established in this article will always be free from stormwater flooding or flood damage nor shall this article create any liability on the part of or cause of action against the city or any officer, agent or employee thereof for any flood damage that may result from storms or the runoff thereof or purport to reduce the necessity for obtaining flood insurance.

(Code 1979, § 17-27)

Sec. 138-363. Rules and regulations.

It shall be the duty of the director of water to promulgate reasonable rules and regulations to facilitate the proper administration of this article.

(Code 1979, § 17-18; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-364. Master plan.

(a)

Adequate drainage and control of stormwater is an integral and important part of any development. Proper drainage planning shall be considered to be an essential element of the overall comprehensive plan. A drainage master plan shall be developed by the director of water. Such plan shall be revised when information so warrants, as determined by the director of water. The purpose of the drainage master plan shall be to:

(1)

Establish the boundaries of drainage basins which are either directly located or contribute to stormwater flows within the city.

(2)

Offer a means of identifying and alleviating both present and future drainage and flooding problems while reasonably maintaining the environmental and aesthetic values of drainageways.

(3)

Present, in an organized fashion, basic data and information regarding the relationship between rainfall and stormwater flows.

(4)

Offer an effective means by which subdividers and the city may cooperate in controlling stormwater flows.

(5)

Provide the city with a process for scheduling the installation of major facilities.

(b)

The city may solicit the cooperation of other governmental entities in providing drainage facilities in drainage basins or parts thereof, which extend outside the city limits for the purpose of carrying out the drainage master plan.

(c)

Notwithstanding any other provision in this article to the contrary, the city shall be deemed to be providing drainage facilities to any property within the city when stormwater from such property is accepted or capable of being accepted in any of the following types of facilities: publicly dedicated or owned streets, alleys, utility easements, gutters, ditches, catchbasins, pans, drop structures, pipes, lined or unlined channels, natural drainageways, or any other publicly owned or operated facility used for the transportation of stormwater.

(Code 1979, § 17-19; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-365. Dedication of easements; construction of minor facilities.

(a)

Every subdivider shall provide, without cost to the city, an easement of not less than 16 feet in width up to such maximum width as is necessary to accommodate drainage from a 100-year storm for the purpose of constructing and maintaining drainage facilities for the transmission, through the subdivider's property, of all stormwater generated upstream from the subdivision. Notwithstanding this requirement, any natural drainageway having an identifiable bed and banks which traverses any subdivider's property shall not be encroached upon or altered so as to render the drainageway less suitable to accept and transport stormwater which has historically flowed through such drainageway. The maximum width of the storm drainage easement to be provided by the subdivider shall be reasonably determined by the directors of water and public works.

(b)

Wherever possible, existing street patterns may be utilized for the purpose for which an easement would otherwise be required. Alternatively, the city may, at its sole option, waive the requirement for granting such an easement.

(c)

It shall be the responsibility of the subdivider, at his or her sole expense, to construct or provide for the construction of all minor facilities required within his or her subdivision for the acceptance and transmission of all stormwater generated outside of his or her subdivision, as though such water was in fact generated from land in its fully developed state. It shall further be the duty of the subdivider, at his or her sole expense, to construct or provide for the construction of all minor facilities required for the acceptance and transmission of all stormwater generated from within his or her subdivision, as though such subdivision was in fact fully developed, or as may otherwise be approved by the directors of utilities and public works.

(Code 1979, § 17-23)

Sec. 138-366. Construction of major facilities.

(a)

Under this article, responsibility for the construction of major facilities shall be apportioned between the city and the subdivider. It shall be the responsibility of the city to construct or provide for the construction of grade control structures and regional detention ponds required for the adequate drainage, control and conveyance of stormwater generated within a subdivision, including the drainage, control and conveyance of stormwater generated outside of such subdivision as though such water was generated from land in its fully developed state. It shall be the responsibility of the subdivider, at his or her sole expense, to provide for earthwork, erosion protection and revegetation associated with stream channelization required for the adequate drainage, control and conveyance of such water.

(b)

Subject to the approval of the city council, the director of water shall create a schedule for the construction of major facilities, and the city and the subdivider shall make a good faith effort to complete such construction in accordance therewith. This schedule shall be modified annually to reflect the availability of funds and other relevant considerations. The director of water shall consider the following matters in establishing and modifying the schedule:

(1)

The need to protect existing development from flood damage and other events detrimental to the public health and safety;

(2)

The need to prevent the violation of other local, state and federal laws or regulations;

(3)

The need to prepare land for development; and

(4)

The desirability of constructing such facilities solely for the purpose of complying with the drainage master plan.

(c)

If a subdivider desires to construct major facilities for his or her subdivision prior to the sequence established by the approved schedule, such construction may be allowed at the subdivider's sole expense provided that:

(1)

The health and safety of the public and its property is neither damaged nor diminished;

(2)

A violation of local, state and federal laws or regulations will not occur;

(3)

The plans for such construction meet all city criteria and are approved by the directors of public works and water; and

(4)

Such construction will not adversely impact any other landowners within the area or, if such an impact will result, the affected landowners agree to such construction.

(d)

If such out-of-sequence construction is in accordance with the city's infrastructure planning, the city may enter into an agreement with the subdivider, wherein the subdivider may recapture a portion of the funds expended for the construction of grade control structures and regional detention ponds.

(e)

Agreements for reimbursement for the out-of-sequence construction of grade control structures and regional detention ponds shall not provide for any payment to the subdivider of an amount which exceeds the actual costs incurred by the subdivider in the construction of such facilities, exclusive of any finance or interest charges, plus ten percent. This amount shall also constitute reimbursement in full to the subdivider for all nonconstruction expenses. The subdivider shall be responsible for all contracts associated with the construction of such facilities.

(f)

Following construction by a subdivider of any major facilities, record drawings signed by a professional engineer and bearing his or her seal shall be presented to the city for its review. Such plans must be reviewed by the directors of water and public works prior to the city's acceptance of such facilities. All major facilities and facilities appurtenant thereto, which are constructed under this section, shall, upon written acceptance by the city and fulfillment of the one-year warranty period, become city property and the city shall thereafter be responsible for the operation and maintenance of such.

(Code 1979, § 17-24; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-367. Preliminary and final drainage plans.

(a)

Under this article, every subdivider shall, at his or her sole expense, be required to:

(1)

Establish, locate or otherwise define the boundaries of all subdrainage areas within his or her subdivision;

(2)

Establish, locate or otherwise define the alignment and boundary of any natural drainageway or existing drainage facilities and private drainage works within his or her subdivision;

(3)

Submit for review and approval by the directors of water and public works, prior to the final approval of any subdivision plat or site plan, a preliminary storm drainage plan for his or her subdivision, which shall include preliminary drawings of all proposed drainage facilities, drainage studies and reports, design computations, estimated costs of construction, and such other information as may be required to ensure that stormwater originating both from his or her proposed subdivision and lands lying upgradient from such subdivision will be adequately drained and controlled; and

(4)

Convey to the city by dedication, deed and bill of sale, free and clear of all liens and encumbrances and in consideration of the city thereafter maintaining and operating such, all constructed drainage facilities, including adequate easements or rights-of-way within his or her subdivision necessary for the maintenance, repair or replacement of such facilities, which conform to the drainage master plan and which, in the opinion of the director of water, could reasonably be considered to be an integral part of the storm drainage system.

(b)

The directors of water and public works shall not approve any proposed storm drainage plan or construction of drainage facilities or accept any constructed drainage facilities which do not conform to the drainage master plan or such reasonable rules and regulations as may be promulgated to ensure the adequate drainage and control of stormwater.

(c)

The directors of water and public works shall not recommend approval for any subdivision plat or site plan which does not conform to the drainage master plan or such rules and regulations.

(d)

After the final approval of any subdivision plat, site plan, or part thereof for which final approval is requested and prior to the issuance of any building permits, the subdivider shall, at his or her sole expense, prepare and submit for review and approval by the directors of water and public works a final storm drainage plan, including detailed construction drawings, plans, profiles and specifications for the construction and installation of all drainage facilities necessary for the drainage and control of all stormwater within his or her subdivision and the conveyance of such water to a safe discharge or outflow point. Such plan shall conform to the approved preliminary drainage plan for the subdivision and the drainage master plan and shall bear the seal of a registered professional engineer of the state. The subdivider shall also prepare and submit an estimated construction schedule in accordance with [chapter 147](https://library.municode.com/HTML/10331/level2/PTIICOOR_CH147SUOR.html#PTIICOOR_CH147SUOR) of this Code. Prior to the issuance of any building permit, the subdivider must complete any and all improvements which may be necessary to remove the underlying subdivision from a 100-year floodplain.

(e)

The directors of water and public works may recommend another temporary discharge or outflow point at which the water will be received by an open channel or other minimum, temporary or substitute facility to carry the water, provided that it is technically feasible and not detrimental to the health, safety and welfare of the public. The city council may, in the interest of the health, safety and welfare of the public, direct the purchase of land or construction of drainage facilities as shown in the drainage master plan.

(f)

The approval of any preliminary or final drainage plan under this section shall be valid for a period of one year from the date such approval is given.

(g)

Land not otherwise excluded or exempted under this section shall be ineligible for replatting or resubdividing if:

(1)

Drainage basin development fees have not been assessed;

(2)

Drainage facilities have not been built in accordance with accepted plans and specifications;

(3)

Preliminary drainage plans have not been submitted; or

(4)

The subdivider has failed to comply with all of the requirements of this section.

(h)

Land may be replatted or resubdivided without additional assessment of drainage basin development fees or construction of additional drainage facilities if the drainage plan submitted with the replat or resubdivision indicates that no new drainage facilities are required as a result thereof, provided that:

(1)

Drainage basin development fees have been paid; and

(2)

Drainage facilities have been built in accordance with accepted plans and specifications.

(Code 1979, § 17-25; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-368. Requirements for mains, structures or facilities.

(a)

It shall be unlawful for any person to construct, install, place or attempt to construct, install or place any storm drainage system extension or related subsurface structure or facility within any public street, avenue, alley or other public way or to discharge into a public right-of-way or easement, without first having entered into a storm drainage system extension agreement with the utility enterprise. The agreement shall provide for the dedication of all storm drainage system improvements so constructed or installed to the utility enterprise upon such terms and conditions as the director of water may determine.

(b)

Application for a storm drainage system extension agreement shall be made to the utility enterprise on forms provided by the director of water. The applicant shall provide all necessary technical information and data regarding the proposed storm drainage system improvements as may be required by the director.

(c)

Following execution of the storm drainage extension agreement and prior to commencing construction or installation of any storm drainage system improvements, each applicant shall procure a public improvement permit from the city. Application for such permit shall be made to the public works department on forms provided by the director of public works.

(d)

At the time of filing the permit application, each applicant shall pay a public improvement permit fee. Such fee shall be promulgated by the director of public works in accordance with the provisions of section 2-587 of this Code. The proceeds of such fee shall be used to defray the costs associated with the inspection and acceptance of storm drainage system extensions and related subsurface structures or facilities. In addition to such fee, any person requesting inspection of a storm drainage system extension or related subsurface structure or facility at any time other than normal city business hours shall reimburse the city for all reasonable costs expended in making such inspection.

(e)

Contractors responsible for construction or installation shall comply with the licensing, permitting, and bonding requirements set forth in article V of chapter 126 of this Code.

(f)

No person may enter into a storm drainage system extension agreement or be issued a public improvement permit, nor may any contractor be allowed to perform work under any such agreement or permit when such person or contractor has failed to diligently complete and discharge his or her performance and warranty obligations under a prior agreement or permit.

(g)

All fees collected pursuant to this section shall be credited to and deposited in an account of the public works department in the general fund.

(h)

It shall be the responsibility of the applicant or the developer of the subject property to obtain any permits required for the construction, placement or installation of the proposed drainage facilities under section 404 of the Clean Water Act or any other applicable federal or state statute, rule or regulation. Unless otherwise agreed to by the director of water, it shall be the responsibility of the applicant to obtain any floodplain map amendments or revisions required as the result of the construction, placement or installation.

(Code 1979, § 17-26; Ord. No. 99-84, § 6, 11-29-99; Ord. No. 2005-74, § 1, 10-10-2005)

**Secs. 138-369—138-395. Reserved.**

**DIVISION 2**

Sec. 138-396. Development fee.

(a)

A drainage basin development fee shall be levied and assessed upon each vacant and undeveloped lot and parcel of land within the city for the purpose of funding certain major facilities, the construction and installation of which the city is responsible under subsection 138-66(a). The amount of such fee shall $2,516.00 per acre effective January 1, 2007, and $2,818 per acre effective January 1, 2008. The fee shall be due and payable at the time of subdivision platting. Land dedicated to the city for public purposes pursuant to an approved annexation agreement shall be exempt from fees required by this subsection. This exemption shall not apply to land dedicated for easements, rights-of-way, streets, highways or storm drainage, unless otherwise provided in the annexation agreement.

(b)

The drainage basin development fee shall be computed on the basis of the gross acreage included within a platted lot or parcel of land. For purposes of this subsection, the boundaries of a platted lot or parcel of land shall be deemed to extend to the centerline of the street or streets abutting such lot or parcel.

(c)

For all areas of the city, the director of water shall cause to be made and periodically revised an environmental study which lists by location any areas which require special drainage facilities. Such areas shall include:

(2)

Areas where the leaching of toxic materials is likely to occur;

(3)

Areas where extreme erosion is likely to occur; or

(4)

Areas where extreme siltation is likely to occur.

(d)

The director of water will prepare an overall plan for the construction, operation and maintenance of drainage facilities to address such environmental requirements in the most cost effective manner. Where appropriate, the costs of such facilities shall be added to the drainage basin development fee assessed under this section.

(Code 1979, § 17-20(a); Ord. No. 2002-66, § 1, 11-18-2002; Ord. No. 2005-02, § 3, 2-7-2005; Ord. No. 2005-74, § 1, 10-10-2005; Ord. No. 2006-16, § 3, 3-20-2006; Ord. No. 2006-65, § 5, 11-13-2006)

Sec. 138-397. Monthly usage fee.

(a)

There is imposed on each and every lot or parcel of land within the city a monthly usage fee for storm drainage service. This fee shall be used to pay for the operation, maintenance, improvement and replacement of drainage facilities.

(b)

The basis for computing the amount of the monthly usage fee shall be the extent of the use, as determined by the city, which each lot or parcel of land within the city makes of drainage facilities, together with the amount of stormwater runoff from such lot or parcel, including the normal stormwater runoff of such lot or parcel in an undeveloped condition.

(1)

The monthly usage fee will not be levied or assessed upon undeveloped land which has been left in its natural state.

(2)

The monthly usage fee for land which has been altered by the works of man shall be as follows:

a.

Single-family detached and individually metered single-family attached users shall be assessed a monthly usage fee in the amount of $8.16 effective January 1, 2010, per dwelling.

b.

Multifamily and master metered single-family attached users shall be assessed a monthly usage fee in the amount of $8.16 for the first unit served under a billing account, plus $6.42 for each additional unit or space occupied or intended for occupancy (effective January 1, 2010).

c.

Commercial and industrial users shall be assessed a monthly usage fee in the amount of $8.16 (effective January 1, 2010) for the first 2,500 square feet of gross floor space of a building or group of buildings or fraction thereof which are occupied or used for storage or are intended to be used for such purposes. A fee in the amount of $6.42 will be assessed (effective January 1, 2010) for each additional 2,500 square feet of gross floor space of the building or group of buildings or fraction thereof. Whenever the hard surface or paved area of a lot or parcel of land occupied by a commercial or industrial site exceeds three times the gross floor space of the building or group of buildings, such excess area shall be considered gross floor space for the purpose of computing the monthly usage fee assessed under this subsection.

(3)

For purposes of this article, the following terms shall have the same meaning ascribed to them in section 138-221 of this Code: "single-family detached," "single-family attached," "multifamily," "commercial," and "industrial" user.

(Code 1979, § 17-20(b); Ord. No. 2002-13, § 5, 3-18-2002; Ord. No. 2005-10, § 3, 3-21-2005; Ord. No. 2006-16, § 4, 3-20-2006; Ord. No. 2006-65, § 6, 11-13-2006; Ord. No. 2008-61, § 4, 11-24-2008; Ord. No. 2009-48, § 2, 11-16-2009)

Sec. 138-398. Administrative review and court proceedings.

(a)

Any property owner who disputes the amount of the fees assessed pursuant to this division or who disputes any other determination made by or on behalf of the city pursuant to this article may petition the director of water for a hearing on the revision or modification of such assessment or determination no later than 30 days after having been billed for such assessment or after having been notified of such determination. The director of water may conduct such hearing himself or herself or, at his or her sole discretion, may designate an officer or employee of the city as the hearing officer.

(b)

Such petition shall be in writing, and any evidence submitted shall be under oath or affirmation under penalty of perjury. The hearing shall take place not less than 30 days and not more than 60 days from the date of submission of the petition to the director of water. For purposes of this subsection, the applicable time period shall be calculated in accordance with rule 6 of the Colorado Rules of Civil Procedure. The hearing shall be held in the offices of the city or at such other reasonable place as the director of water may designate. Notice of and the procedures to be followed at such hearing shall be in accordance with rules and regulations promulgated by the director of water. The petitioner shall bear the risk of nonpersuasion.

(c)

Within ten days after the conclusion of the hearing, the director of water or his or her designee shall make a final decision in accordance with the evidence submitted. Such decision shall be considered a final order of the director of water and may be reviewed under rule 106(a)(4) of the Colorado Rules of Civil Procedure as provided in this article. Before making application to the district court under rule 106(a)(4), the petitioner shall file with the director of water a bond in the amount of the fees due and owing to the city as stated in the final decision with a surety as is provided in cases of attachment under the Colorado Rules of Civil Procedure. Alternately, at his or her option, the petitioner may deposit lawful money of the United States in the same amount with the city. Depending on the location of the property which is the subject matter of the action, the district court of either the 17th or 18th judicial district of the state shall have original jurisdiction under rule 106(a)(4) to review the final decision of the director of water.

(d)

Every final decision of the director of water shall be in writing, and notice thereof shall be mailed to or served upon the petitioner within 15 days from the date of the decision. All such decisions shall become effective upon the expiration of 30 days after notice thereof is mailed to or personally served upon the petitioner, unless proceedings for review by the district court are commenced within that time. Service by certified mail, return receipt requested, shall be conclusive evidence of service for purposes of these proceedings.

(Code 1979, § 17-20(c); Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-399. Declared lien if delinquent.

(a)

The city council finds and determines that it is the policy of the city that all drainage services provided by the city shall be deemed to be provided to the real property so served without regard to the actual person billed for storm drainage services.

(b)

All unpaid drainage basin development and monthly usage fees are declared to be delinquent from and after 75 days after the billing therefor. There is declared to be a lien on the real property so served in the amount of such unpaid fees, together with an administrative fee not to exceed ten percent of the total amount of unpaid fees and rates. All liens created by this section shall relate back to the time drainage services were provided to the real property. Such penalty and interest shall be assessed at a rate equivalent to that which is assessed upon delinquent general property taxes under state law.

(c)

The city clerk is authorized and empowered to certify to the treasurer of the appropriate county the legal description of the real property so served, together with the amount of the delinquent fees attributable to the property. Certification of the unpaid fees and rates to the county treasurer shall serve as notice to the property owner of said delinquency. The lien created by this section of the code shall be a first lien upon the subject property and shall be superior to all other liens, or claims against such property of whatever kind or nature regardless of the date except any lien for general property taxes or special improvement district assessments. Upon receipt of said certification, the county treasurer shall proceed to collect such unpaid fees and rates generated in the same manner as general property taxes.

(d)

The provisions of this section for the collection of delinquent drainage basin development and monthly usage fees shall be in addition to any other remedies for the collection of such fees authorized by rule or regulation promulgated by the director of water.

(Code 1979, § 17-21; Ord. No. 96-28, § 1, 7-22-96; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-400. Disposition of fees.

(a)

All storm drainage development and usage fees paid to the city pursuant to this code shall be segregated, credited to and deposited in the storm drainage account of the sewer fund of the utility enterprise and shall be used for the construction, installation, operation, maintenance, replacement, extension and improvement of the storm drainage system and for all lawful activities associated therewith as may be directed by the city council. Such fund may also be used for the acquisition of land necessary for the construction and installation of drainage facilities.

(b)

Notwithstanding any provision of this section to the contrary, the utility enterprise may pledge the proceeds of such fees to the retirement of the principal and interest of revenue bonds or other obligations issued by the enterprise or general obligation bonds issued by the city for the purpose of financing the construction, installation, replacement, extension or improvement of both drainage and sanitary sewer facilities.

(c)

Appropriations for capital projects from the storm drainage account within the sewer fund shall not lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned, provided that any project shall be deemed to have been abandoned if three fiscal years elapse without an expenditure from or encumbrance of the appropriation for such project.

(Code 1979, § 17-22; Ord. No. 99-84, § 7, 11-29-99)

**Secs. 138-401—138-435. Reserved.**

**ARTICLE 8 – STORMWATER**

Sec. 138-436. Definitions and abbreviations.

(a)

*Definitions.* Unless specifically defined as follows, words or phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage and, further, to give this article its most reasonable application:

*Best management practices (BMPS)* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPS also include treatment, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from material storage. BMPS include structural and nonstructural controls. Construction and permanent BMPS are described in the rules and regulations of the Aurora Water Department.

*Director* means the director of water and such director's authorized representative.

*Polluting materials* means materials that include but are not limited to raw materials; fuels; materials such as solvents, detergents, plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical which a facility is required to report pursuant to section 313 of title III of SARA; garbage; soil; sediment; organic materials; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with a discharge of stormwater.

*Responsible party for permanent BMPS* is the owner of the property on which permanent bmps have been constructed, and the designated agent of the owner.

*Significant development or redevelopment, for the purposes of this article,* shall be defined as any land disturbance of one acre or more within a site. Disturbances smaller than one acre will be addressed in accordance with the city's storm drainage design and technical criteria.

*Stormwater* means stormwater runoff, snow melt runoff, and surface runoff and drainage.

*Stormwater system* means all drainage facilities owned, operated or maintained by the city which are used for the conveyance, control, or storage of stormwater to, through and from drainage areas to points of final outlet, including but not limited to any and all of the following: conduits, canals, ditches, channels, streams, gulches, gullies, flumes, culverts, ponds, siphons, bridges, pump stations, and all features appurtenant thereto.

*Subdivider* means the owner or developer of a subdivision or any other lot or parcel of land proposed for development.

(b)

*Abbreviations.* The following abbreviations shall have the designated meanings:

*CERCLA* means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 USC 9601 et seq.

*NPDES* means the National Pollutant Discharge Elimination System.

*SARA* means the Superfund Amendments and Reauthorization Act of 1986.

*USC* means the United States Code.

(Code 1979, § 39-161; Ord. No. 98-56, § 2, 8-3-98; Ord. No. 2004-82, § 1, 12-20-2004; Ord. No. 2005-74, § 1, 10-10-2005; Ord. No. 2007-92, § 1, 1-7-2008)

Sec. 138-437. Findings of fact; purpose.

The city council finds and determines that there is a public need to control the quality of stormwater drainage flowing through the municipal storm sewer and into the waters of the United States and, further, that this is a matter that affects the public health, safety and welfare of the inhabitants of the city. Therefore, it is necessary for the city to provide a comprehensive system of regulation and enforcement for the control of the quality of stormwater drainage through the enactment of this article.

(Code 1979, § 39-160)

Sec. 138-438. Rules and regulations.

It shall be the duty of the director of water to promulgate such reasonable rules and regulations not inconsistent with this article so as to facilitate the proper administration of this article.

(Code 1979, § 39-162; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-439. Prohibited discharges.

(a)

It shall be unlawful for any person to discharge or cause to be discharged to the storm drainage system any polluting material or any other material which is not composed entirely of stormwater.

(b)

Except insofar as such may be identified by the city as sources of polluting materials, this section shall not apply to the following categories of non-stormwater discharges:

(1)

Water line and fire hydrant flushing;

(2)

Landscape irrigation;

(3)

Diverted stream flows;

(4)

Rising groundwaters;

(5)

Uncontaminated groundwater infiltration into the storm drainage system;

(6)

Uncontaminated pumped groundwater;

(7)

Discharges from potable water sources;

(8)

Foundation drains;

(9)

Air conditioning condensation;

(10)

Irrigation water;

(11)

Springs;

(12)

Water from crawlspace pumps;

(13)

Footing drains;

(14)

Lawn watering;

(15)

Flows from riparian habitats and wetlands;

(16)

Individual residential car washing;

(17)

Individual residential dechlorinated swimming pool and hot tub discharges;

(18)

Individual residential street washing;

(19)

Emergency firefighting activities;

(20)

Discharges specifically authorized by a separate National Pollutant Discharge Elimination Systems (NPDES) permit; and

(21)

Discharges specifically authorized by separate Colorado Discharge Permit System (CDPS) permit.

(Code 1979, § 39-163; Ord. No. 98-96, § 6, 1-11-99; Ord. No. 2009-27, § 1, 7-13-2009)

Sec. 138-440. Best management practices.

During the development of any property within the city, a subdivider must use construction best management practices for the control of the quality of stormwater drainage originating from the subject property. Additionally, permanent best management practices are required to ensure continuing compliance with the rules and regulations of the Aurora Water Department.

(Code 1979, § 39-164; Ord. No. 2007-92, § 2, 1-7-2008)

Sec. 138-441. Quality of stormwater drainage plans.

Prior to any site grading or excavation, as defined in [section 22-531](https://library.municode.com/HTML/10331/level3/PTIICOOR_CH22BUBURE_ARTXIVEXGR.html#PTIICOOR_CH22BUBURE_ARTXIVEXGR_S22-531DE) and not excepted in section 22-533, a subdivider proposing significant development or redevelopment shall submit a plan for the control of the quality of stormwater drainage to the director of water. Such plan shall include all facilities and control measures necessary to ensure continuing compliance with the rules and regulations promulgated under section 138-438. Such subdivider shall be responsible for design, construction, and effective operation of the facilities and measures set forth in the plan. Approval by the city of any plans shall not create a liability on the part of or cause of action against the city or any officer or employee thereof regarding the plan or its operation, nor does this article purport to reduce or obviate the need for the subdivider to obtain any other local, state, or federal licenses or permits. Specific plan requirements, processing procedures, and approval criteria shall be set forth in the rules and regulations promulgated under section 138-438. Approval of the plan required under this section for the control of the quality of stormwater drainage with regard to proposed significant development or redevelopment is required to obtain the permit described in section 138-442.

(Code 1979, § 39-165; Ord. No. 98-56, § 3, 8-3-98; Ord. No. 2005-74, § 1, 10-10-2005)

Sec. 138-442. Stormwater permit.

(a)

*Required.* It shall be unlawful for any person to begin construction upon or cause any excavation or grading of any site within the city without first having procured a stormwater quality permit when such permit is required by the rules and regulations promulgated pursuant to this article in accordance with federal and state stormwater control requirements.

(b)

*Application.* Prior to commencing any construction upon or excavation or grading of any site within the city, every person shall make application to the water department for a stormwater quality permit. Such applicant shall set forth on the forms provided by the director of water, all necessary technical information and data as may be required.

(c)

*Fee.* The filing of any application under this section shall be accompanied by the payment of a stormwater quality permit fee. Such fee shall be promulgated by the director of water and shall be assessed for the purpose of defraying the cost of all inspections and plan reviews regarding the site of the construction, excavation, or grading. Such fees shall be in addition to those fees required by other sections of this Code.

(d)

*Inspection.* Any person requesting an inspection of such site at any time other than normal city business hours of 7:30 a.m. through 4:00 p.m., Monday through Friday, or on any legal holidays shall reimburse the city for all reasonable costs expended by the city in making such inspection.

(e)

*Fiscal security.* An applicant for a stormwater permit shall be required to post fiscal security as follows for the purpose of securing the city against all costs, charges, and expenses incurred by the city due to the failure of the permittee to perform all requirements of the permit pertaining to installation and maintenance of stormwater BMPs:

(1)

The amount of the fiscal security required shall be the lesser of 25 percent of the total opinion of probable costs for installing and maintaining construction erosion and sediment control BMPs, or $250,000.00. In the event that 25 percent of such probable costs is less than $1,000.00, no fiscal security bond is required.

(2)

The fiscal security requirement may be satisfied with a surety or cash bond. Cash bonds may be in the form of a cashier's check, bank draft, certified check, bank money order, or cash. No interest will be paid to the permittee on cash bond funds. A surety bond shall be an irrevocable bond payable to the city in the required amount. Such bond shall be valid for a minimum period of two years from its date of issue. Such bond shall be renewed as required thereafter, so that the bond shall continue coverage until final closeout of the permit. Such bond must be executed by a commercial financial institution or corporate surety company authorized to do business in Colorado.

(3)

If there exists an immediate danger to public health or safety, or if the permittee fails to correct or restore a site following a notice of violation or stop work order, the city may enter upon the subject property and complete the necessary correction or restoration and may draw on the posted fiscal security and use the funds to recover all costs incurred by the city. If the city incurs costs that are not recovered in full by drawing on posted fiscal security, the director shall send a demand notice to the permittee and the registered property owner of such property where the correction or restoration was done for payment of city incurred but unrecovered costs. If the permittee or property owner fails to pay the costs within 30 days of such notice being sent, the amount shall constitute a lien against the real property upon which the expense was incurred. Any notice of lien shall consist of a sworn statement setting out:

(i)

A description of the real estate sufficient for identification thereof.

(ii)

The amount of money representing the cost and expense incurred or payable to the city.

(iii)

The date when such cost and expense was incurred by the city.

(4)

Fiscal security must remain in place until final closeout of the stormwater permit.

(5)

In the event of a permit transfer, the original permittee is eligible for a refund of their posted fiscal security once the permit has been transferred and the new permittee has posted the required fiscal security.

(6)

The director may waive the required posting of fiscal security when the applicant and/or owner is a governmental entity, provided that the director finds the city's financial exposure with such waiver is reasonably limited or that the city's financial interests which would be protected by posted fiscal security are adequately protected by other means.

(f)

*Denial.* A new stormwater quality permit may not be issued to any applicant nor may a contractor be allowed to perform work under a new or additional permit when such applicant or contractor has failed to diligently complete and discharge his or her performance and warranty obligations under a previous permit.

(g)

*Disposition of fees.* All fees as provided in this section shall be credited and deposited to an account of the water department to defray the cost of services set forth in this article.

(h)

*Other requirements.* It shall be the responsibility of the applicant or subdivider to obtain and provide the city with copies of any permits required under section 404 of the Clean Water Act, as well as all other required local, state, and federal permits for the construction, placement, installation or implementation of the proposed facilities or measures. Unless otherwise agreed to in writing by the director of water, it shall be the responsibility of the applicant or subdivider to obtain any floodplain maps, amendments or revisions due to construction, placement, installation or implementation of proposed facilities or measures.

(Code 1979, § 39-166; Ord. No. 98-56, § 4, 8-3-98; Ord. No. 98-96, § 7, 1-11-99; Ord. No. 2005-74, § 1, 10-10-2005; Ord. No. 2007-92, § 3, 1-7-2008; Ord. No. 2009-50, § 1, 11-16-2009)

Sec. 138-442.5. Permanent stormwater best management practices.

(a)

Permanent stormwater quality BMPS, shall be inspected and maintained by the responsible party, in accordance with the provisions of this section and the measures of the storm drainage design and technical criteria.

(b)

*PE certification:* All private and public permanent stormwater quality bmp construction shall be certified in compliance with the approved construction plans and specifications by a professional engineer (PE) licensed in the State of Colorado.

(c)

*Inspection and maintenance:* An inspection and maintenance plan (IM plan) shall be developed concurrently with the design of the permanent BMPS and submitted with the final drainage plan and report for approval by the public works department and water department. the IM plan shall specify:

(1)

The responsible party,

(2)

Owner and responsible party contact information,

(3)

Facility address,

(4)

List recommended inspection and maintenance activities and frequencies,

(5)

Access,

(6)

Approximate annual maintenance costs.

(d)

The responsible parties shall perform inspections of permanent stormwater bmps pursuant to the approved IM plan, document the inspection(s) and maintenance, and submit an annual inspection report to the water department.

(e)

The responsible party shall submit a signed maintenance agreement to the water department. The approved maintenance agreement shall be recorded with deed records to ensure that the maintenance agreement is bound to the property in perpetuity.

(f)

*Failure to submit annual inspection report:* If the annual inspection report is not submitted to the city, the responsible party will be notified by mail. The responsible party will have 20 business days to complete the inspection and mail it to the city. A notice of violation (NOV) may be issued by the city if an inspection is not submitted by the 20th business day.

(g)

*Review by city:* The responsible party shall allow the city to enter upon the subject property at reasonable times to conduct on-site visits.

(h)

*Correction of deficiencies:* If deficiencies are noted during city site visit, the city will notify the responsible party by US mail. The city may also issue a notice of violation (NOV). The responsible party shall correct deficiencies and immediately notify the city of the corrections. If deficiencies have not been abated after notice pursuant to the time specified in the notice or any extension of time to comply with such notice, the city may conduct the maintenance at the responsible party's expense. Failure of the responsible party to correct deficiencies thereby consents, under terms of this section, to have the city abate the violations. The responsible party will be responsible for all abatement costs incurred by the city.

(i)

If there exists an immediate danger to public health or safety, the city may enter upon the subject property and complete the necessary maintenance and/or repair at the responsible party's expense.

(j)

*City's lien.* If the responsible party fails to pay the abatement costs within 30 days of such notice being sent, the amount shall constitute a lien against the real property upon which the permanent BMP was or is situated. any notice of lien shall consist of a sworn statement setting out:

(1)

A description of the real estate sufficient for identification thereof.

(2)

The amount of money representing the cost and expense incurred or payable to the city.

(3)

The date when such cost and expense was incurred by the city.

(Ord. No. 2007-92, § 3, 1-7-2008)

Sec. 138-443. Enforcement.

(a)

*Suspension of permit, services.* The director of water may suspend the stormwater quality permit of and the provision of storm drainage utility services to any person and property when, in the opinion of the director, such suspension is necessary in order to stop an actual or threatened reduction of the quality of stormwater drainage originating from such property which presents or may present an imminent or substantial endangerment to the health, safety, or welfare of persons or the environment. Any person notified of such suspension shall take immediate action to stop or eliminate the offending discharge. If a person fails to take immediate action to voluntarily comply with the suspension order, the director shall take such steps as deemed necessary, including but not limited to the immediate impoundment of stormwater drainage to prevent or minimize damage to individuals or the environment. The director may also initiate appropriate legal action in the name of the city in such circumstances. The director shall reinstate the permit and service upon proof of the cessation or elimination of the offending discharge. A detailed written statement submitted by the offending party describing the causes of the offending discharge and the measures taken to prevent any future occurrence of the discharge shall be submitted to the director within five days of the date of such occurrence.

(b)

*Revocation of permit.* Any person to whom a stormwater quality permit has been issued who violates any conditions of this article or the rules and regulations promulgated under this article or any applicable local, state and federal laws and regulations is subject to having such permit revoked. Grounds for revocation include but are not limited to:

(1)

Failure to factually report the constituents and characteristics of stormwater drainage originating from the site.

(2)

Failure to report significant changes in operations or stormwater drainage constituents.

(3)

Refusal of reasonable access to the site by authorized city personnel for purposes of inspection or monitoring.

(4)

Violation of any permit condition.

(c)

*Written notice of violation.* Whenever the city finds that any person has violated or is violating this article or the rules and regulations promulgated under this article or any prohibition, limitation or requirement contained in the stormwater quality permit issued to such person, the director may serve upon such person written notice stating the nature of the violation. Non-compliant items shall be resolved immediately, however the director may allow up to seven days for correction of those violations identified in the notice of violation as requiring a remediation plan.

(d)

*Stop work order.* If the director finds conduct or conditions that are not in conformance with this article, the rules promulgated pursuant to this article, or the terms of a stormwater permit, the director may issue a stop work order. Such order shall specify the activities that must cease, and may include all construction activities at the site except for erosion prevention and sediment control measures. Upon issuance of a stop work order, the cited activity shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. It shall be unlawful for any person to continue any prohibited activity after having been served with a stop work order, except such work that has been identified as necessary to correct the noted deficiency(s). The stop work order will be in effect until the director cancels the order in writing.

(e)

*Legal action.* If any person causes or permits stormwater drainage to originate from any property owned by or under the control of such person contrary to the provisions of this article, the rules and regulations promulgated under this article or any order issued by the director, in addition to any other remedies or actions, the director may:

(1)

Ask the city attorney to commence an action for appropriate legal and equitable relief in any county or district court having jurisdiction over the subject matter of the action and of the amount, if any, sought to be collected; or

(2)

Institute criminal proceedings in the municipal court in and for the city through the issuance of a municipal summons and complaint to the offending party pursuant to the authority granted by Code section 50-30.

(f)

*Enforcement actions not exclusive.* All such enforcement actions provided herein are cumulative and in addition to any other remedies provided by law.

(Code 1979, § 39-167; Ord. No. 2005-74, § 1, 10-10-2005; Ord. No. 2009-50, § 2, 11-16-2009)

Sec. 138-444. Penalties.

(a)

*Civil penalties.*

(1)

Any person who violates any provision of this article or any order, rule, regulation, or permit issued under this article shall be subject to a civil penalty of not more than $5,000.00 per day during which such violation occurs or continues.

(2)

In addition to the penalties provided in subsection (a) (1) of this section, the city may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person found to have violated this article or the orders, rules and regulations or permits issued under this article.

(b)

*Criminal penalties.*

(1)

Any person who violates any provision of this article or any order, rule, regulation, or permit issued under this article shall, upon conviction, be punished by a fine of not more than $5,000.00 or by imprisonment for not more than six months or by both.

(2)

Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

(3)

Any fine imposed under this section shall not be suspended by any municipal judge.

(Code 1979, § 39-169)

Sec. 138-445. Falsifying information.

It is unlawful for any person to knowingly make any false statement, representation or certification in any application, report, record, plan or other document filed or required to be maintained pursuant to this article or to knowingly falsify, tamper with or render inaccurate any monitoring device or method required under this article.

(Code 1979, § 39-170)

Sec. 138-446. Violation of city's NPDES permit.

(a)

It shall be unlawful for any person to cause or substantially contribute to a violation of the city's NPDES stormwater discharge permit.

(b)

Notwithstanding any provision of this article to the contrary, if assessed a penalty for any violation of its NPDES stormwater discharge permit, the city shall have the authority to recover civil penalties from or impose criminal penalties against any person who is found to have caused or substantially contributed to such violation in an amount equal to the penalty assessed against the city.

(Code 1979, § 39-171)

Sec. 138-447. Permit required for livestock grazing in drinking water reservoir watersheds.

(a)

It shall be a violation of this chapter, and is hereby declared to be a public nuisance, for any person, including but not limited to an owner, manager, or tenant of real property, to allow or to fail to prevent the presence of livestock on any land located within the watershed area of a drinking water reservoir except pursuant to a valid permit issued pursuant to this section.

(b)

A permit for grazing livestock within the watershed area of a drinking water reservoir shall be issued by the director of water upon the taking of adequate precautionary measures by the applicant to mitigate the potential for pollution of the city's drinking water supply caused by livestock grazing. Such precautionary measures may include, but are not limited to, restricting the amount of livestock on the land and/or fencing the land in such a manner as to restrict the extended presence of livestock in the more sensitive portions of the watershed area. The city shall not require unreasonable measures to be taken by an applicant, and shall in no event prohibit or impose requirements that would have the effect of prohibiting the agricultural use of any land.

(c)

No permit issued pursuant to this section shall be valid for a period of more than one year. Any permit issued pursuant to this section may be revoked by the director of water at any time for failure to adhere to the criteria described above in subsection (b). The denial or revocation of a permit may be appealed to the city manager or designee, and an informal hearing may be requested by the aggrieved party. The city manager or designee shall consider only the adherence to or the deviation from the criteria described above in subsection (b), and his or her decision is final.

(d)

For the purposes of this section, the term "livestock" shall mean any domesticated animal, including but not limited to horses, cattle, sheep, goats, pigs, peacocks, turkeys, chickens, ducks, geese, or other poultry, fowl, or mink.

(e)

For the purposes of this section, the term "watershed area" shall mean land which is located within the corporate boundaries of the city and which is designated by the director of water as draining into a drinking water reservoir. The designation of land as being within a watershed area may be appealed by the landowner in the same manner provided in subsection (c).

(Ord. No. 97-04, § 1, 3-3-97; Ord. No. 2005-74, § 1, 10-10-2005)