

CHAPTER 3. MUNICIPAL AND PUBLIC UTILITIES

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

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

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

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

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

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

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

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

Subd. 7 Owner. The person or entity having record title to a specific piece of land. This term does not include persons or entities holding licenses or easements across a particular piece of land, nor does it include mortgagees-except when a mortgagee has become the record owner of the property through foreclosure or recorded deed.

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

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

fixed and determined by the respective franchisees in compliance with this Section, as follows:

Subd. 1 Council Approval Required. No rate or charge involving an increase shall become effective until approved by the Council. To request such increase the franchisee shall prepare its written petition setting forth the then current and proposed rates and charges, the effective date of the proposed increases (which may not be within ninety days of filing the petition), and the reason necessitating the proposed increase or increases. Such petition shall be filed with the Council by serving the same on the City Administrator in person or by certified mail, return receipt requested.

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

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

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

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

300.05 Rules and Regulations Relating to Municipal Utilities.

Subd. 1 Billing, Payment and Delinquency. All municipal utilities shall be billed monthly or quarterly and a utilities statement or statements shall be mailed to each consumer owner, or upon the owner's authorization, to the owner's designated professional property manager each month or quarter. For the purpose of this ordinance the Montgomery City Administrator shall have final authority in determining whether an individual or entity shall be considered a professional property manager. For the purpose of this ordinance persons or entities renting

the property are by definition excluded from being professional property managers for that property. All utilities charges shall be delinquent if they are unpaid at the close of business on the last day of the month following such billing, provided, that if the last day shall fall on a Saturday, Sunday or legal holiday, the time shall be extended to the close of business on the next succeeding day on which business is normally transacted. A penalty of 10% or a minimum of \$1.00 per month, whichever is greater, shall be added to, and become part of, all delinquent utility bills. If municipal utility service is suspended or disconnected as permitted in this Chapter, said municipal utility service shall not be restored at that location until a reconnection charge has been paid for each utility reconnected at that location, in addition to amounts owed for services and penalties.

Subd. 2 Application, Connection and Sale of Service. Application for municipal utility services shall be made on forms supplied by the City, and strictly in accordance with the form. No connection shall be made until consent has been received from the City to make the same. All municipal utilities shall be sold and delivered to consumers under the then applicable rate applied to the amount of such utilities taken as metered or ascertained in connection with such rates.

Subd. 3 Discontinuance of Service. All municipal utilities may be shut off and/or discontinued by the City whenever the City Administrator finds that:

- A. The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any requirement of the City Code, or any connection, or,
- B. Any charge for a municipal utility service, or any other financial obligation imposed by the City or its designee on the present owner or occupant of the premises served, is unpaid after the notice required by City ordinance has been given, or,
- C. The City Administrator finds that there is fraud or misrepresentation by the owner or occupant in the application for municipal utility service, its delivery, or as concerns charges the City would normally impose for the use of the municipal utility; or
- D. The owner or occupant denies the City, its agents, or its employees access to the premises for the purpose of reading, inspecting, repairing, or replacing municipal utility meters; or
- E. The owner or occupant of the premises denies the City access during weekday business hours (Monday through Friday from 8:00 a.m. through 4:30 p.m.) for the purpose of conducting inspections to determine whether there are fire, building, zoning code, or plumbing code violations occurring on the premises.

Subd. 3a Content of Disconnection Notice. The disconnect notice shall state the legal basis for disconnecting water service to the subject property. The disconnect notice shall describe procedures for the property owner to appeal the water shut off and shall contain the scheduled water shut off date. In the event the disconnection notice is based upon the property owner's failure to pay a city utility bill, the notice shall state that the bill is overdue, the total amount due, and the date by which payment must be received by the city for the property owner to avoid water shut off. The disconnect notice shall contain reference to the Minnesota Cold Weather Rule. The disconnect notice shall also contain information regarding penalty and reconnection fees attendant to the disconnection water service.

Subd. 3b Service of Disconnect Notice. The disconnect notice authorized under City Ordinance 300.05, Subd. 3 shall be served upon the owner and occupant of the premises to be disconnected from municipal utility service by personal service or first class United States mail, at the City's sole discretion. If the City, at its sole discretion, elects to serve notice by first class United States mail then the City clerk mailing said notice shall execute an original affidavit of service by mail and said service by mail shall be retained in the City Administrator's file along with the disconnect notice letter. The owner and occupant of property located within the City shall bear the full responsibility for keeping the City informed at all times as to their mailing address. The City shall be deemed to have sent proper mailed notice if said notice is mailed to the last known address the City has in its files for the owner or occupier of the premises to be disconnected from municipal utility services. If the owner's or occupant's address is unknown then the City's municipal utility disconnect notice will properly be served upon the individual through one week's published notice of said disconnect notice in the City's official newspaper. In the event that utilities are disconnected pursuant to this Section, a reconnection charge shall be applied. The reconnection fee shall be set out in the City's fee ordinance.

Subd. 3c Appeal to City Council. An owner, or an occupant who has been served by the City with a municipal utility disconnect notice, pursuant to City Ordinance 300.05, Subd. 3b above, may appeal the City Administrator's finding that municipal utility disconnection is appropriate to the City Council, at any regularly scheduled City Council meeting occurring between the date the owner or occupant received the disconnect notice and the date the disconnection is to occur. The right to appeal shall be deemed automatically waived if the appeal is not made timely and does not use the procedure set out in this subdivision. For the appeal to be timely it must be brought at the next regularly scheduled Council meeting following service of the disconnect notice upon the person or entity provided for in the City ordinances. The appeal must be made in writing by the owner or occupant of the premises to be disconnected from municipal utility service, and the written appeal must be filed in the City Administrator's office at least 5 business days prior to the next regularly scheduled Council meeting at which the appeal will be heard, exclusive of the day of said Council meeting.

The notice of appeal must be made on a form provided by the City, and shall be dated and signed by the property owner, or property owner's authorized agent, and shall contain the following information:

- a. Name, address and phone number (during business hours) of property owner
- b. Utility account number
- c. Date of bill
- d. Dated of proposed attachment of the current limiter
- e. Amount of bill
- f. If amount of bill is in dispute, reasons for the property owner's belief that the bill is in error and the proposed adjustment
- g. If property owner is unable to pay part or all of bill by Attachment Date, reason for inability to pay and proposed payment arrangements.

The appellant's utilities shall not be shut off pending the appeal hearing to the City Council. The City Administrator's office shall notify the appellant in writing as to the date, time, and place of the hearing. At the hearing the appellant and the City Administrator may present any testimony and evidence relevant to the appeal, and the City Council may question appellant, the City Administrator, or any witness about any matters relevant to the appeal. The City Council shall rule on the appeal at the conclusion of the hearing, by oral motion, said motion decided by majority vote. Each council member voting shall state on the record the rationale supporting that council member's position on the vote. The council vote will be treated as final action and any further appeal by the losing party shall be taken in conformance with Minnesota Law.

Subd. 4 Ownership of Municipal Utilities. Ownership of all municipal utilities, plants, lines, mains, extensions and appurtenances thereto, shall be and remain in the City and no person shall own any part or portion thereof, except the water service line from the shutoff valve to the property owner's house or other structure connected to the main, but not including the shutoff valve, shall be considered to belong to the property owner. Further, private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership.

Subd. 5 Right of Entry. The City has the right to enter in and upon private property, including buildings and dwelling houses, in or upon which is installed a municipal utility or connection therewith, at all times reasonable under the following circumstances: for the purpose of reading utility meters, for the purpose of inspection and repair of meters or a utility system, and for the purpose of connecting and disconnecting service. If the landowner or lawful possessor of the private property denies the City entry onto the private property for the purposes set out in the previous sentence, then the City shall employ either or both of the following remedies:

1. Shut off and/or disconnect all municipal utilities servicing to the subject property as permitted under City Ordinance Section 300.05(3)(D); or,
2. Obtain an order or warrant from the Le Sueur County District Court granting the City access to the subject property for the purposes set out in the first sentence of this Subdivision.

Subd. 6 Meter Test. Whenever a consumer shall request the City to test any utility meter in use by the consumer, such a request shall be accompanied by a testing fee which shall be established from time to time by Council resolution. If any such meter is found to be inaccurate the same shall be replaced with an accurate meter and the fee refunded. If the meter shall be found to be accurate in its recordings or calculations it shall be reinstalled and the fee shall be retained by the City to defray the cost of such test.

Subd. 7 Unlawful Acts.

- A. It is unlawful for any person to willfully or carelessly break, injure, mar, deface, disturb, or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture, or appurtenance of any municipal utility or municipal utility system, or commit any act tending to obstruct or impair the use of any municipal utility.
- B. It is unlawful for any person to make any connection with, opening into, use, or alter in any way any municipal utility system without first having applied for and received written permission to do so from the City.
- C. It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the City for nonpayment of a bill, or for any other reason, without first having obtained a permit to do so from the City.
- D. It is unlawful for any person to “jumper” or by any means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume unmetered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.
- E. It is unlawful for landowners within the City to not repair private water lines or private sewer lines within the time set by the City.
- F. It is unlawful for any person within the City to reside on property which does not have active City sewer and water service. It is unlawful for any landowner within the City to allow any person to reside on the landowner’s property when that property does not have active City sewer and water service. For this paragraph, the term “person” shall have the

same definition as is contained in the definition section of the Montgomery Zoning Code. For this paragraph, the term “landowner” shall mean any person or entity having a fee ownership interest in the property on which a violation of this paragraph exists.

G. Any person or entity having a fee interest in the property on which a violation of this Subdivision is alleged, is hereby made strictly liable for any violation of Montgomery Ordinance 300.05, Subd. 7, as that ordinance may be amended from time to time.

Subd. 8 Municipal Utility Charges a Lien.

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

B. Each municipal utility charge is made a lien upon the premises served. All such charges which are on October 31 of each year more than thirty days past due, may be certified by the City Administrator to the county Auditor on or before December 31 of each year, and the City Administrator in so certifying such charges to the County Auditor shall specify the amount, the description of the premises served, and the name of the owner. The City shall have a public hearing on the proposed liens prior to the City Council approving the liens and certifying the charges to the County Auditor. The amount so certified shall be extended by the Auditor on the tax rolls against such premises in the same manner as other taxes, and collected by the County Treasurer, and paid to the City along with other taxes. The City shall set by ordinance the interest rate charged on past due municipal utility accounts and special assessments certified to the County Auditor.

Subd. 9 Municipal Utility Service Outside the City. Premises located outside the City shall not be connected to or served by any municipal utility, except such premises as are publicly owned or presently served. Persons needing municipal utility service whose property is located outside the corporate limits must initiate and complete annexation proceedings in advance prior to being provided with such service or services.

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

300.07 Cold Weather Rule: Municipal Utilities.

Subd. 1 Application: Notice to Residential Customers. The municipal utility shall not disconnect utility service of a residential customer if the discontinuation affects the primary heat source for the residential unit when the following conditions are met: (1) the disconnection would occur during the period between October 15 and April 15; (2) the customer has declared inability to pay on forms provided by the utility; (3) the household income of the customer is less than 50 percent of the state median income; (4) the customer's account is current; and (5) the customer receives referrals to energy assistance programs, weatherization, conservation, or other programs likely to reduce the customer's energy bills.

Subd. 2 Burden of Proof on Residential Customer. To have the protection provided by this ordinance a residential customer must prove the following to the City by a preponderance of the evidence: (1) that the individual is a residential customer for city utilities; (2) that water is the primary heating source for the residential customer; and (3) the residential customer must prove inability to pay.

Subd. 3 Limitation on Cold Weather Rule Set Out Herein. The cold weather rule applies only to residential customers of the municipal utility who use water as their primary heating source. This ordinance does not extend to or provide protection to nonresidential users of municipal water, or persons whose primary heat source is something other than water.

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

Subd. 5 Restrictions if Disconnection Necessary.

(a) If a residential customer must be involuntarily disconnected between October 15 and April 15 for failure to comply with the provisions of Subd. 1, the disconnection must not occur on a Friday, or on the day before a holiday. Further, the disconnection must not occur until at least 20 days after the notice required in Subd. 2 has been mailed to the customer or 15 days after the notice has been personally delivered to the customer.

(b) If a customer does not respond to a disconnection notice, the customer must not be disconnected until the utility investigates whether the residential unit is actually occupied. If the unit is found to be occupied, the utility must immediately inform the occupant of the provisions of this

section. If the unit is unoccupied, the utility must give seven days' written notice of the proposed disconnection to the local energy assistance provider before making a disconnection.

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

Section 305 – RULES AND REGULATIONS RELATING TO WATER SERVICE

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

305.02 Repair of Leaks. It is the responsibility of the property owner to maintain the service pipe from the house, other building, hydrant or other fixtures which they are intended to supply, to the City water shutoff valve, but not including the water shutoff valve. The City shall be responsible for maintaining the service pipe from the main to the shutoff valve, including the shutoff valve. In case of failure upon the part of the property owner to repair any leak occurring in the service pipe within twenty-four (24) hours after oral or written notice has been given to the owner of the premises, the City may proceed with any and all repairs necessary to repair the leak and restore the area to its previous condition. The property owner shall be liable for all costs incurred by the City to repair the leak and to restore the area. The entire cost of repair shall be a lien on the property pursuant to Section 300.05, Subd. 8.

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

305.04 Service Pipes. Every service pipe must be laid in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than seven (7) feet below the surface in all cases and arranged as to prevent rupture and stoppage by freezing. It shall be the responsibility of the property owner to repair frozen service pipes pursuant to Section 305.02. Service pipes must extend from the main to the inside of the building; or if not taken into a building then to the hydrant or other fixtures which they are intended to supply. A valve, the same size as the service pipe, shall be placed close to the inside wall of the building, ahead of the meter and well protected from freezing. Joints on copper tubing shall be flared and kept to a minimum. No more than one joint shall be used for a service up to seventy feet in length. All joints shall be left uncovered until inspected by the City. Minimum size connection with the water mains shall be three-quarter (3/4) inch in diameter. If lead service lines have to be replaced, or in the event of a street being

opened, repaired, or reconstructed, all lead service lines must be replaced with copper or approved plastic service lines at the expense of the owner.

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

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

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

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

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

305.10 Water Meters. All water meters required by the City exceeding one inch in size shall be purchased and maintained by the property owner, at the property owner's expense. All placement and installation of water meters within the City of Montgomery must be approved by the City building official. No certificate of occupation shall be issued by any City building official for any property until the requirements of this Chapter have been met. All repairs of water meters not resulting from normal usage shall

be the responsibility of the property owner, as shall any maintenance and repair of meters which are not of the remote reading type. Any meter twenty years old, or older, or in need of replacement, shall be replaced with a remote type which shall be purchased by the property owner and shall be the maintenance responsibility of the City. All water meters shall be installed and controlled by the City and the cost of installation shall be the responsibility of the property owner. Any remote type meter in need of replacement by reason of normal usage shall be furnished by the City, installed at the expense of the property owner, and the City shall thereafter own such meter. Each new residence built in the City of Montgomery shall have two (2) water meters separating water that will enter the municipal sanitary sewer system from water that will not enter that system, with sanitary sewer charges only to be put against water entering the sanitary sewer system. Exception shall exist for townhome or condominium associations which provide a zone sprinkling (irrigation) system approved by the City building official, so long as the non-sanitary sewer fed zone water sprinkling (irrigation) water is operated by, repaired and maintained by, and paid for by the association.

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

305.12 Connection Fees. Water service shall be furnished only after a Building Permit application has been made and approved and the water connection fee has been paid.

305.13 Assessments. Upon proper application, the water connection fee due the City of Montgomery pursuant to this Code may be paid in annual installments of not more than 15 years at an interest rate to be established in this case by the City Council.

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

310.01 General Provisions.

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

- A. To prevent the introduction of pollutants into the wastewater disposal system which will interfere with the operation of the system or the use or disposal of the sludge;
- B. To prevent the introduction of pollutants into the wastewater disposal system which will pass through the system inadequately treated into receiving waters or the atmosphere or otherwise be incompatible with the system; and,
- C. To improve the opportunity to recycle and reclaim wastewater and sludge from the system.
- D. To prevent the discharge of surface water, storm water, groundwater sump pumps, footing tile, swimming pools, cistern overflows, cooling water, or other natural precipitation into the City sanitary sewer system.

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

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

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

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

Subd. 2 Biochemical Oxygen Demand (BOD5). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory

procedure in five days at 20 degrees Centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

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

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

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

Subd. 6 National Pollutant Discharge Elimination System (NPDES) Permit. Any permit or requirements issued by the Minnesota Pollution Control Agency (MPCA) pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq); for the purpose of regulating the discharge of sewage, industrial wastes, or other wastes under the authority of Section 402 of the Act.

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

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

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

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

process changes or other means, except as prohibited by 310.03, Subd. 2, of this Section.

Subd. 11 Significant Industrial User. Any industrial user of the wastewater disposal system which (i) has a discharge flow of 25,000 gallons or more per average work day, or (ii) has a flow greater than 5t of the flow in the wastewater disposal system, or (iii) has in its wastes toxic pollutants as defined pursuant to Section 307 of the Act or Minn. Stat. and rules, or (iv) has a significant impact, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

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

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

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

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

Subd. 16 Wastewater. The liquid and water; carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions which is discharged into or permitted to enter the wastewater disposal system.

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

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

Subd. 19 Other. Terms not otherwise defined herein shall be as given in Minn. Stat., Chap. 115 and 116, as amended.

Subd. 20 Infiltration. Water entering a sewer system, including building drains and sewers, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls.

Subd. 21 Inflow. The water discharged into a sewer system, including building drains and sewers, from such sources as, but not limited to, roof leaders; cellar, yard and area drains; foundation drains; sump pumps; cistern overflows; drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, storm waters, surface water, street wash waters or drainage.

310.03 Regulations.

Subd. 1 General Discharge Prohibitions.

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

1. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. 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.

2. Solids or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, gas tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

3. Any wastewater having a pH less than 5.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater disposal system.
4. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act.
5. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
6. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
7. Any wastewater which creates conditions at or near the wastewater disposal system which violate any statute, City Code provision, or any rule or regulation of any public agency or State or Federal regulatory body.
8. Any wastewater having a temperature greater than 150 degrees F (65.6 degrees C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104 degrees F (40 degrees C).
9. Any slug load, which shall mean any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge of such volume or strength as to cause inhibition or disruption in the wastewater disposal system. In no case shall a slug load have a flow rate or contain concentrations or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations, quantities, or flow of the user during normal operation.
10. Non-contact cooling water or unpolluted storm or groundwater.

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

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

13. Any wastewater having a BOD5 greater than 250 mg/l or having a suspended solids concentration of greater than 300 mg/l.

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

Subd. 2 Limitations on Wastewater Strength.

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

pretreatment standards may be made by the City in accordance with 403.7(b)(2)(i-iv) of the “General Pretreatment Regulations for Existing and New Sources of Pollution” if requested by the industry(ies) in accordance with requirements of 403.7(b)(1)(i).

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

C. City’s Right of Revision. The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in 310.01.

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

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

- 3.5 mg/l arsenic
- 1.2 mg/l cadmium
- 4.5 mg/l copper
- 2.8 mg/l cyanide
- 0.6 mg/l lead
- 0.5 mg/l mercury
- 4.1 mg/l nickel
- 4.0 mg/l silver
- 7.0 mg/l total chromium
- 4.2 mg/l zinc
- 1.0 mg/l phenolic compounds which cannot be removed by the wastewater treatment processes.

Subd. 3 Accidental Discharge. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Section. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user’s own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Council for review, and shall be approved by the Council before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user’s facility as necessary to meet the requirements

of this Section. Users shall notify the Wastewater Superintendent immediately upon having a slug or accidental discharge of substances or wastewater in violation of this Section in order to enable counter-measures to be taken by the Superintendent to minimize damage to the wastewater disposal system and the receiving waters. Such notification will not relieve users of liability for any expense, loss or damage to the wastewater disposal system or treatment process, or for any fines imposed on the City on account thereof under any State or Federal law. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a slug or accidental discharge. Employers shall ensure that all employees who may cause or discover such a discharge are advised of the emergency notification procedure.

Subd. 4 Clearwater Discharges.

A. No person shall discharge any surface water, groundwater sump pump, footing tile, swimming pool, cistern overflow, cooling water, or other natural precipitation into the sanitary sewer system except as may be recommended by the City Engineer and approved by the City Council after a determination is made that the additional flow of water is insubstantial and will not adversely impact the capacity of the sanitary sewer system, or as may be provided elsewhere in this Section. The discharge of surface water, storm water, groundwater, or roof runoff water to the sanitary sewer system, as approved by the City Council shall be limited to November 1 through March 31. Costs for processing runoff water will be billed to the property owner as per Section 310.04. Dwellings and other buildings and structures, which require, because infiltration of water into basements, crawl spaces and the like, a sump pump discharge system, shall have a permanently installed discharge line which shall not, at any time, discharge water into the sanitary sewer system, except as provided herein. Permanent installation shall be one, which provides for year-round-discharge to the outside of the building, is connected to the City storm sewer, or discharges through the curb to the street. It shall consist of a rigid discharge pipe, without valving or quick connections for altering the path of discharge.

B. Waivers. The City Council shall have the power and duty of hearing and deciding requests for waivers from the applicability of the provisions of this ordinance where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration or cause a safety problem. Application for a waiver shall be in writing addressed to the City of Montgomery. The applications shall identify the property for which the waiver is being applied, the name of the property owner, and describe in detail what characteristics of the subject property create an undue hardship or safety concerns. Upon approval of an application for a waiver, the property owner shall be allowed to temporarily pump directly into the sanitary sewer system

between the dates of November 1st and March 31st via a City controlled locked valve. The owner of a property with a waiver shall allow a City employee access prior to April 1st of each year to lock out the valve allowing winter discharge to the sanitary sewer. Costs for processing sump pump water through the sanitary system will be billed to the property owner for an annual charge to be set by resolution of the Council. The City shall have the right to inspect all property in the spring of each year to assure their water discharge connection has been removed from the sanitary sewer. Failure to remove said discharge will result in a \$100.00 per month surcharge.

C. Disconnection. Before March 31, 2001, any person, firm, or corporation having a roof surface, groundwater sump pump, footing tile, cistern overflow, or swimming pool now connected and/or discharging into the sanitary sewer system shall disconnect and/or remove same. Any disconnects or openings in the sanitary sewer shall be closed or repaired in an effective, workmanlike manner, as approved by the City of Montgomery or designated agent.

D. Inspection. Every person owning improved real estate that discharges into the City's sanitary sewer system shall allow an employee of the City of Montgomery or their designated representative, bearing proper credentials and identifications, to inspect the buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. In lieu of having the City inspect their property, any person may furnish a certificate from a licensed plumber certifying that their property is in compliance with this ordinance. Any person refusing to allow their property to be inspected or refusing to furnish a licensed plumber's certification within fourteen (14) days of the date City employees or their designated representatives are denied admittance to the property, shall immediately become subject to the surcharge hereinafter provided for. Any property found to violate the ordinance shall make the necessary changes to comply with the ordinance and furnish proof of the changes to the City by March 31, 2001.

Property owners not in compliance with this Section will be charged a monthly surcharge in accordance with subparagraph F.

E. New Home Inspections. During any new construction, renovation or demolition the connection(s) to the sanitary sewer shall be protected through the use of a cover plug in order to eliminate the potential for inflow to enter the sanitary sewer system. Any such water collected shall not be allowed to enter the sanitary sewer system at any time.

All new buildings with groundwater sump systems are required, prior to final inspection by City personnel, to have the sump pump installed.

All new homes will be required to have their sump pump system inspected within thirty (30) days of occupancy and a certificate of compliance completed.

F. Penalty. A surcharge of \$100.00 per month is hereby imposed and added to every sewer billing mailed on and after March 31, 2001, to property owners who are not in compliance with this ordinance. The surcharge shall be levied monthly on properties not complying with the ordinance. All properties found during yearly re-inspection to have violated this ordinance will be subject to the \$100.00 per month penalty for all months between the two most recent inspections. This charge shall cease when the property has been inspected by the City or its representatives and deemed to be in compliance with this ordinance.

310.04 Fees.

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

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

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

Subd. 3 Connection Fees. Sewer service shall be furnished only after a Building Permit application has been made and approved and the connection fee of \$5,000 per unit has been paid.

- A. Assessments. Upon proper application, the connection fee established in Section 305.12 may be paid in annual installments of not more than 15 years at an interest rate of 7%.

310.05 Administration.

Subd. 1 General User Reports. The Superintendent may require that any person discharging or proposing to discharge wastewater to the wastewater disposal

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

Subd. 2 Wastewater Discharge Permits.

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

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

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

Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;

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

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

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

1. The unit charge or schedule of user charges and fees for the wastewater to be discharged to the wastewater disposal system;
2. Limits on the average and maximum wastewater constituents and characteristics;
3. Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;
4. Requirements for installation and maintenance of inspection and sampling facilities;
5. Requirements for installation, operation, and maintenance of pretreatment facilities;
6. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule;
7. Compliance schedules;
8. Requirements for submission of technical reports or discharge reports;
9. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Council, but in no case less than three years, and affording Council access to such records;
10. Requirements for notification to and acceptance by the Council of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

11. Requirements for notification of slug or accidental discharges as provided in Subd. 3 of Subsection 310.02, and reporting of permit violations;
12. Requirements for disposal of sludges, floats, skimmings, etc.; and,
13. Other conditions deemed appropriate by the City to ensure compliance with this Section.

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

E. Permit Modifications. Within nine months of the promulgation of a national categorical 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 a Wastewater Discharge Permit as required by Subd. 2 of this Subsection 310.04, the user shall apply for a Wastewater Discharge Permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing Wastewater Discharge Permit shall submit to the Council within 180 days after the promulgation of an applicable national categorical pretreatment standard the information required by Subsection 310.04, Subd. 2(B)(8). If the information previously submitted in an application is still current and adequate, only a letter from the user certifying such is required.

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

Subd. 3 Monitoring Facilities.

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

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

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

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

Subd. 5 Pretreatment.

A. Users shall provide necessary wastewater treatment as required to comply with this Section and shall achieve compliance with all national categorical pretreatment standards within the time limitations as specified by the Federal pretreatment regulations. Any facilities required to pretreat wastewater shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Council for review, and shall be

acceptable to the Council before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Superintendent under the provisions of this Section. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Council prior to the user's initiation of the changes.

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

C. Any user subject to a national categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of the commencement of a new discharge to the wastewater disposal system, shall submit to the Superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the Council, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in Subd. 1 or Subd. 2 of this Subsection 310.04. The Council may agree to alter the months during which the above reports are to be submitted.

Subd. 6 Final Compliance Date Reporting Requirements. Within ninety days following the date for final compliance with applicable pretreatment standards or, in the case of the commencement of a new discharge to the wastewater disposal system, any user subject to pretreatment standards and requirements shall submit to the Council a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these 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 operation and maintenance and/or pretreatment is necessary to bring the facility into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by the user, and certified to by a qualified professional.

Subd. 7 Confidential Information.

A. Information and data on a user obtained from applications, permits, monitoring programs and inspection shall be available to the public or other government agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Council that

the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

B. When requested by the person furnishing a report, and until such time as the information is determined not to be confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Section, the NPDES Permit, State Disposal System Permit, and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the Council as confidential shall not be transmitted to any governmental agency or to the general public by the Council until and unless a ten-day notification is given to the user.

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

310.05 Enforcement.

Subd. 1 Slug or Accidental Discharges.

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

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

or accidental discharge and the measures taken to prevent any future occurrence shall be submitted to the Superintendent within fifteen days of the date of occurrence.

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

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

Subd. 4 Show Cause Hearing.

A. Notice of Hearing. If the violation is not corrected by timely compliance, the Council may order any user which causes or allows an unauthorized discharge to show cause before the Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Council regarding the violation, the reason why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

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

1. Issue in the name of the Council notices of hearings requesting the attendance and testimony of witnesses and the protection of evidence relevant to any matter involved in such hearings;
2. Take the evidence; and,

3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Council for action thereon.

C. Transcripts. At any hearing held pursuant to this Section, testimony taken must be under oath and recorded 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 for it.

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

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

F. Annual Publication. A list of the users which were significantly violating applicable pretreatment requirements or national categorical pretreatment standards during the twelve (12) previous months shall be annually published by the City in a local newspaper. The notification shall also summarize any enforcement actions taken against the user(s) during the same twelve (12) months. For the purposes of this provision, significant violations would be those violations which remain uncorrected 45 days after notification of non-compliance; which are part of a pattern of non-compliance over a twelve-month period; or which involve a failure to accurately report non-compliance.

G. Appeal to the Council.

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

2. Any decision of the enforcement of this Section may be appealed to the Council by filing a written petition with the City Administrator within thirty (30) days of the Superintendent's ruling. Said petition shall specify in detail the matter or matters involved and every ground or basis on which objections are made.

Said petition shall show the names, addresses and telephone numbers of all objectors and their attorney at law or spokesperson. The filing of a petition in accordance with the requirements of this Section shall stay all proceedings unless the Council shall file within seventy-two (72) hours after the filing of a petition a certificate stating that a stay would cause peril to life or property or specifying other good reason.

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

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

310.06 Unlawful Acts and Costs of Damage.

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

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

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

Section 315 – RULES AND REGULATIONS RELATING TO REFUSE
COLLECTION AND DISPOSAL

315.01 Definition. The term “refuse” means and includes all drained organic material resulting from the preparation of food and spoiled or decayed food from any course, bottles, cans, glassware, paper or paper products, crockery, ashes, rags, and discarded clothing, and tree or lawn clippings.

315.02 Storage and Transporting Refuse.

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

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

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

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

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

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

315.06 Use of Unmarked Bags or Containers. It is a petty misdemeanor for any person or persons to place non-recyclable refuse in any bag or other container except for the

special bags marked by the refuse collection service and purchased in the City Office or other designated locations in the City, or in another container approved by the Council.

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

SECTION 316 – STORMWATER UTILITY

316.01 Definitions. The following definitions shall apply in the interpretation and enforcement of this ordinance:

Subd. 1 Base Rate. The fee charged for the runoff from a one (1) acre, light density parcel of land with an RED of 1.0

Subd. 2 Impervious Surface. Any surface which does not provide vertical drainage of water, including, but not limited to, roofs, buildings, concrete, bituminous surfaces, surface concrete pavers, and gravel.

Subd. 3 Residential Equivalent Factor (REF). The volume of runoff generated by an average one-third (1/3) acre residential lot covered by no more than thirty percent (30%) impervious surface.

Subd. 4 Light Density. A parcel of land, the surface of which is covered by between zero percent (0%) to thirty percent (30%) impervious surface.

Subd. 5 Medium Density. A parcel of land, the surface of which is covered by between thirty-one percent (31%) to sixty percent (60%) impervious surface.

Subd. 6 Heavy Density. A parcel of land, the surface of which is covered by between sixty-one percent (61%) to eighty-five percent (85%) impervious surface.

Subd. 7 Extreme Density. A parcel of land, the surface of which is covered by between eighty-six percent (86%) to one hundred percent (100%) impervious surface.

316.02 Stormwater Utility Fees.

Subd. 1 Purpose and Establishment. A municipal stormwater utility for the City of Montgomery is hereby established. The stormwater utility shall be operated pursuant to Minnesota Statutes Section 444.075, as amended. Revenues derived from the stormwater utility shall be dedicated to:

A. The administration, planning, analysis, installation, construction, operation, maintenance, and replacement of public drainage systems;

B. The administration, planning, implementation, construction, and maintenance of storm water Best Management Practices (BMPO's) to reduce the introduction of sediment and other pollutants into local water resources; or,

C. Other education, engineering, inspection, monitoring, testing, and enforcement activities as necessary to maintain compliance with local, state, and federal storm water requirements.

Subd. 2 Stormwater Utility Fees.

A. Calculation Method. To calculate the stormwater utility fee, the Residential Equivalent Factor (REF) for each parcel's storm water runoff contribution classification shall be multiplied by that parcel's size, and then multiplied by the stormwater base rate (fee = REF x acreage x base rate).

B. REF Classification. The City shall determine the REF for each parcel of property within the City based upon the amount of impervious area on the property and other factors reasonably affecting the amount of storm water runoff from each parcel of property. The REF classifications used by the City shall be as follows:

CLASS	STORMWATER LAND USE CLASSIFICATION	REF
0	Vacant, parks and cemeteries	0.0
1	One and two-family residential	1.0
1	Light density (up to 30% impervious)	1.0
2	Medium density (31% to 60% impervious)	2.0
3	Heavy density (over 61% to 85% impervious)	3.0
4	Extreme density (over 86% impervious)	4.0

C. Acreage. For the purpose of calculating stormwater utility fees, actual acreage shall be used except for those parcels used for one and two-family dwellings. All parcels used for one and two-family dwellings shall be calculated using one-third (1/3) of an acre regardless of their actual size.

D. Utility Fee Reduction. The City shall reduce the fee charged if the landowner shows that some or all of the stormwater runoff generated by the parcel does not enter the stormwater management system maintained by the City. The fee shall be reduced by the percentage of water diverted into other stormwater management, detention facilities or retention facilities, but in no case shall it be reduced below the fee charged for a light density parcel of equal size. A landowner who wishes to have their stormwater utility fee reviewed must submit a written request to the City Administrator for review of their stormwater charge and pay the applicable review fee established in the City fee schedule. The calculation of the stormwater charge will be reviewed by the City Engineer and City Administrator.

E. Minimum Fee. Each parcel less than one-third ($1/3$) of an acre in size shall be charged a minimum fee. The minimum fee shall be no less than the fee charged to parcels used for one and two-family dwellings.

F. Stormwater Utility Rate Part of City's Fee Schedule. The stormwater utility rate shall be reviewed from time to time by the City Council as the rate shall be made a part of the City's fee schedule.

G. The fee for each parcel 4 acres or greater in area with an REF of 1 shall be calculated based on the acreages of the impervious surface and an REF of 4. The minimum fee shall not be less than the fee established for a 4 acre parcel with an REF of 1.

Section 330 – MISCELLANEOUS SEWER & WATER FEES

330.01 Effective February 18, 2003, the City sewer rates are as follows:

Residential Sewer User Fee per 1,000 gallons: \$8.25.

Commercial Sewer User Fee per 1,000 gallons: \$5.00.

The rates set in this ordinance shall remain in full force and effect from February 18, 2003, until such time as amended by the City Council.

Section 399 – PENALTIES

399.01 Misdemeanor Violations. Each violation of the ordinances within this Chapter constitutes a misdemeanor offense. In addition, the defendant upon conviction shall be made responsible for reimbursing the City for its costs of prosecution. The City hereby adopts and incorporates herein the provisions of Minnesota Statutes Section 412.231, as it may be amended from time to time.

399.02 Non-Exclusivity of Remedies. Violations of Chapter 3 of the Montgomery City Code shall be remedied by the City administratively or through criminal prosecution. These remedy options are not mutually exclusive and the City may pursue both remedy options simultaneously. This means the City may administratively disconnect municipal utility services and impose administrative requirements before those services are reinstated and may also, in addition, separately pursue criminal action pursuant to Section 399.01.