

TITLE III: PUBLIC WORKS

CHAPTER 30: GENERAL UTILITY PROVISIONS	42
30.01. DEFINITIONS.	42
30.02. CONTRACTUAL CONTENTS.....	42
30.03. APPLICATION, CONNECTION AND SALE OF SERVICE.	42
30.04. FIXING RATES AND CHARGES FOR UTILITIES.....	43
30.05. TRUNK CHARGES	43
30.06. WATER RATES.	43
30.07. BILLING, PAYMENT AND DELINQUENCY.	44
30.08. DISCONTINUED SERVICE	45
30.09. METER READINGS.....	46
30.10. RIGHT OF ENTRY.....	47
30.11. UNLAWFUL ACTS.....	47
30.12. SERVICE OUTSIDE AND INSIDE CITY.....	47
30.13. CONNECTION/TAPPING PROHIBITED; DELINQUENT.	48
CHAPTER 31: SOLID WASTE.....	49
31.01. DEFINITIONS.	49
31.02. COLLECTION.	50
31.03. ORGANIZED COLLECTION FOR RESIDENTIAL WASTE.....	51
31.04. YARD WASTE.	52
31.05. RECYCLING.	53
31.06. WASTE DISPOSAL FACILITIES.	54
31.07. LIABILITY AND INDEMNIFICATION.	55
CHAPTER 32: WATER	57
32.01. CONNECTIONS	57
32.02. PERMIT REQUIRED.....	58
32.03. WATER METERS.	58
32.04. OWNERSHIP	60
32.05. USERS' SERVICE PIPES.....	61
32.06. CITY LIABILITY.	62
32.07. SERVICE INITIATION	62
32.08. EMERGENCY BOARD.....	63
32.09. FIRE HYDRANTS.....	63
32.10. PRIVATE WELLS & WATER SUPPLY SYSTEMS PROHIBITED.....	64
32.11. BACKFLOW PREVENTION	65
32.12. CROSS CONNECTION CONTROL	65
32.13. LAWN WATERING RESTRICTIONS.	66
CHAPTER 33: SEWERS.....	67
33.01. PURPOSE AND POLICY.....	67
33.02. DEFINITIONS.	67
33.03. CONNECTIONS.	71
33.04. BUILDING SEWERS AND CONNECTIONS.....	72
33.05. OWNERSHIP.....	73
33.06. CITY LIABILITY.	73
33.07. CONNECTIONS, ALTERATIONS, MAIN AND LATERAL SEWERS.....	74
33.08. PROTECTION FROM DAMAGE.....	74
33.09. USE OF PUBLIC SEWERS.....	74
33.10. PRIVATE SYSTEMS PROHIBITED.....	75
33.11. INDUSTRIAL USES AND USERS.....	75
33.12. LIMITATIONS ON WASTEWATER STRENGTH.	75
33.13. DISCHARGE OF CERTAIN MATERIALS PROHIBITED.....	75
33.14. ACCIDENTAL DISCHARGES.....	79

33.15.	MONITORING.....	79
33.16.	CONFIDENTIAL INFORMATION.....	81
33.17.	REGULATION OF GARAGE FLOOR DRAINS	81
33.18.	SUMP PUMPS	84
CHAPTER 34: STORMWATER MANAGEMENT.....		86
34.01.	PURPOSE.....	86
34.02.	DISTRICT.....	86
34.03.	PERMIT.....	86
34.04.	DEFINITIONS.....	87
34.05.	ABROGATION AND GREATER RESTRICTIONS.....	92
34.06.	STORMWATER DRAINAGE RULES AND REGULATIONS.....	93
34.07.	GENERAL POLICY.....	93
34.08.	STORMWATER POLLUTION PREVENTION AND GRADING PLAN.....	94
34.09.	INSPECTION OF MEASURES.....	94
34.10.	MINIMUM REQUIREMENTS.....	94
34.11.	PLAN CRITERIA.....	95
34.12.	CONTROL MEASURES AND RELATED INSPECTIONS.....	96
34.13.	POLLUTION CONTROLS.....	99
34.14.	WET DETENTION FACILITIES.....	100
34.15.	MINIMUM PROTECTION FOR NATURAL WETLANDS.....	100
34.16.	VEGETATIVE BUFFER; RIVERS, STREAMS AND WETLANDS.....	101
34.17.	ADDITIONAL REQUIREMENTS.....	102
34.18.	MODELS, METHODOLOGIES AND COMPUTATIONS.....	104
34.19.	REVIEW; PERMIT REQUIRED.....	104
34.20.	MODIFICATION OF PLAN.....	105
34.21.	NOTIFICATION OF FAILURE OF PLAN.....	105
34.22.	WAIVER.....	106
34.23.	RIGHT OF ENTRY AND INSPECTION.....	106
CHAPTER 35: PHOSPORHOUS FERTILIZER		107
35.01.	AUTHORITY.....	107
35.02.	DEFINITIONS.....	107
35.03.	PHOSPORHOUS USE RESTRICTIONS.....	107
35.04.	IMPERVIOUS SURFACES.....	108
CHAPTER 36: RIGHT-OF-WAY MANAGEMENT		109
36.01.	FINDINGS, PURPOSE, AND INTENT.....	109
36.02.	ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY.....	110
36.03.	ADOPTION OF RULES BY REFERENCE.....	110
36.04.	DEFINITIONS.....	110
36.05.	ADMINISTRATION.....	114
36.06.	REGISTRATION AND RIGHT-OF- WAY OCCUPANCY.....	114
36.07.	REGISTRATION INFORMATION.....	114
36.08.	PERMIT REQUIREMENT.....	116
36.09.	PERMIT APPLICATIONS.....	116
36.10.	ISSUANCE OF PERMIT; CONDITIONS.....	117
36.11.	PERMIT FEES.....	117
36.12.	RIGHT-OF-WAY PATCHING AND RESTORATION.....	117
36.13.	JOINT TRENCH APPLICATIONS.....	118
36.14.	SUPPLEMENTARY APPLICATIONS.....	118
36.15.	OTHER OBLIGATIONS.....	119
36.16.	DENIAL OF PERMIT.....	119
36.17.	INSTALLATION REQUIREMENTS.....	119
36.18.	INSPECTION.....	120
36.19.	WORK DONE WITHOUT A PERMIT.....	120
36.20.	SUPPLEMENTARY NOTIFICATION.....	121
36.21.	REVOCATION OF PERMITS.....	121

36.22. MAPPING DATA122
36.23. LOCATION AND RELOCATION OF FACILITIES.....123
36.24. PRE-EXCAVATION FACILITIES LOCATION123
36.25. DAMAGE TO OTHER FACILITIES.....123
36.26. RIGHT-OF-WAY VACATION.....124
36.27. INDEMNIFICATION AND LIABILITY.....124
36.28. ABANDONED AND UNUSEABLE FACILITIES.....124
36.29. APPEAL.....124

CHAPTER 30: GENERAL UTILITY PROVISIONS

30.01.	DEFINITIONS.	42
30.02.	CONTRACTUAL CONTENTS.	42
30.03.	APPLICATION, CONNECTION AND SALE OF SERVICE.	42
30.04.	FIXING RATES AND CHARGES FOR UTILITIES.	43
30.05.	TRUNK CHARGES.	43
30.06.	WATER RATES.	43
30.07.	BILLING, PAYMENT AND DELINQUENCY.	44
30.08.	DISCONTINUED SERVICE.	45
30.09.	METER READINGS.	46
30.10.	RIGHT OF ENTRY.	47
30.11.	UNLAWFUL ACTS.	47
30.12.	SERVICE OUTSIDE AND INSIDE CITY.	47
30.13.	CONNECTION/TAPPING PROHIBITED; DELINQUENT.	48

30.01. DEFINITIONS.

A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- 1) COMPANY, GRANTEE and FRANCHISEE. Any public utility system to which a franchise has been granted by the City.
- 2) CONSUMER and CUSTOMER. Any user of a utility.
- 3) HOOK-UP. The original connection to the utility for that property.
- 4) MUNICIPAL UTILITY. Any City-owned utility system, including, but not by way of limitation water, sewerage and refuse service.
- 5) SERVICE. Providing a particular utility to a customer or consumer.
- 6) UTILITY. All utility services, whether the same be public City-owned facilities or furnished by public utility companies.

30.02. CONTRACTUAL CONTENTS.

A) Provisions of this chapter relating to municipal utilities shall constitute portions of the contract between the City and all consumers of municipal utility services. Every consumer shall be deemed to assent to the same.

B) All contracts between franchisees and consumers of utility services other than municipal shall be in strict accord with the provisions of this title.

30.03. APPLICATION, CONNECTION AND SALE OF SERVICE.

A) Application for municipal utility services shall be made upon forms supplied by the City, and strictly in accordance therewith. 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 the utilities taken as metered or ascertained in connection with the rates.

30.04. FIXING RATES AND CHARGES FOR UTILITIES.

A) All rates and charges for municipal utilities, including, but not by way of limitation rates for service, permit fees, deposit, hook-up, meter testing fees, disconnection fees, re-connection fees and penalty fees for delinquency, shall be fixed, determined and amended by the City Council and adopted by resolution.

B) The resolution, containing the effective date thereof, shall be kept on file and open to inspection in the Office of the City Administrator/ Clerk-Treasurer and shall be uniformly enforced.

C) For the purpose of fixing the rates and charges, the Council may categorize and classify under the various types of service, provided, that the categorization and classification shall be included in the resolution authorized by this section.

D) Properties that contain no buildings or impervious surface as determined by the Public Works Director will not be charged utility charges by the City, including water, sewer and storm sewer. Any property owner that believes their property qualifies for this exemption may submit a written request to the Public Works Director to have utility charges halted. As soon as the property is built upon or has impervious surface added, the property will no longer be exempt and will begin receiving utility bills.

30.05. TRUNK CHARGES

A) Trunk Sanitary Sewer and Watermain Fees. As a condition of subdivision plat approval, subdividers shall pay both a Trunk Sanitary Sewer Fee and a Trunk Watermain Fee to the City to fund the sanitary sewer and watermain improvements required by the proposed development. The City shall establish the trunk fees by resolution based on the subdivision's acreage and shall periodically update the fees to account for changes in costs and revenues. The City shall incorporate these trunk fees into a development agreement with the subdivider.

B) Storm Sewer District. The City established a Storm Sewer Tax Improvement District pursuant to Minn. Stat. Chap. 444. The District encompasses the entire geographical area of the City of Montrose, Wright County, Minnesota. The City shall from time to time establish the Storm Sewer District Fees by resolution. As a condition of subdivision plat approval, subdividers may be required to pay additional storm sewer fees to fund the storm sewer improvements required by the proposed development.

30.06. WATER RATES.

A) Water rates will be periodically established by an ordinance adopted by the City Council.

B) Base Rates or minimum charges shall be imposed to all utility customers as defined in Minn. Stat. 444.075. With the exception being second water meters used for residential irrigation purposes.

C) The City of Montrose is required to comply with and adopt the State mandated water conservation rate structure as defined in M.S. 103G.291.

- 1) In addition to the standard base rate, the Increasing Block or Tier Rate is defined as: the cost per unit of water increases as water use increases within specified “blocks” or “tiers” in volume. The following block or tier rate is as follows for the City of Montrose residential users.

Current Standard Base Rate plus:

Tier 1: 0 to 5,999 gallons is at the current per 1000 gallon water rate.

Tier 2: 6,000 to 11,999 gallons is a 10% rate increase from Tier 1 rate.

Tier 3: 12,000 gallons and above is a 10% rate increase from Tier 2 rate.

D) With properties that have more than one water meter, the monthly water meter totals will be added together for a total monthly water usage figure. The tier rate structure will use this monthly total figure to calculate the total monthly usage charge.

E) Multiple-Family Dwellings: Total water use in a multiple-family dwelling, which has only one water meter for the entire dwelling, may exceed that of a single family dwelling. The M.S. statute does not require individual water meters for each residential unit within a multiple-family dwelling; however, the required conservation rate at which the multiple-family dwellings water use is billed must consider the number of residential units within that multiple family dwelling, and take into account that each residential unit is an individual user. The number of residential units for these multiple family dwellings shall be updated annually.

F) Seasonal Residents. Seasonal residents who have their utility services disconnected will still be charged the base rate or minimum charges.

30.07. BILLING, PAYMENT AND DELINQUENCY.

A) Services

- 1) Payment for all municipal utility service and charges shall be the primary responsibility of the owner of the premises served. If a tenant fails to pay any charge the owner of the property is responsible for all charges.
- 2) The City may collect the same in a civil action or, in the alternative and at the option of the City, as otherwise provided in this section.

B) All municipal utilities shall be billed monthly and a utility billing statement or statements shall be mailed to each consumer each month.

C) All utility accounts shall be delinquent if not paid by the twentieth day of the month following the billing statement date. If the twentieth of the month falls on a Saturday, Sunday or legal holiday, the time shall be extended to the close of business on the next succeeding day on which normal business is normally transacted.

D) After a utility account is determined delinquent a penalty fee shall be calculated on all delinquent accounts as determined by City Council resolution, and the penalty fee shall be added to, and become part of, the delinquent utility account. A past due notice may not be generated or mailed when the past due balance is less than \$25, however the late penalty will apply.

E) On the twenty-fourth day of the month a Late Fee Penalty will be applied to all utility accounts that are past due. In addition, a delinquency notice will be generated and mailed stating that the utility service will be disconnected on the fifth day of the following month if the utility bill is not paid.

If the twenty-fourth day falls on a Saturday, Sunday or legal holiday the Late Fee Penalty and delinquency notice will be generated on the next regular business day.

If the fifth day of the following month falls on a Saturday, Sunday or legal holiday the utility services will be disconnected on the next regular business day.

F) Pro-rating. In the event that utility services are not needed for the entire service period pro-rating of utility services will accurately reflect the usage of such services.

G) If service is disconnected due to non-payment, service shall not be restored at that location until a disconnection/re-connection charge has been paid for each utility reconnected in addition to amounts owed for service and administration.

H) The list of unpaid utility charges plus interest shall be delivered to the City Council for adoption in October of each year. Upon approval thereof, the Administrator/ Clerk/ Treasurer shall certify to the County Auditor the amount due, and the County Auditor shall thereupon enter the amount as part of the tax levy on the premises to be collected during the ensuing year as authorized under Minn. Stat. 444.075. This action may be optional or subsequent to taking legal action to collect delinquent accounts.

I) The City provides payment plans for payment of arrears pursuant to Minn. Stat. 216B.098 subd. 3. The City does not provide budget billing plans because the City is exempt from the requirement in Minn. Stat. 216B.098 as the City has fewer than 3000 customers.

30.08. DISCONTINUED SERVICE

A) Any person desiring to discontinue the use of City utilities, or desiring a change in their application as to change of premises or otherwise shall notify the Utility Billing office to that effect, must give notice thereof at the Utility Billing office at least five days previous to such change. The person desiring the change shall schedule to have the service at the curb stop box shut off by authorized City personnel. No unauthorized person shall shut off the water service. Where the City water has been turned off, it will be turned on only when:

- 1) A reconnection fee is paid; and
 - 2) All unpaid fees, usage charges and late payment penalties are paid.
- B) All municipal utilities may be shut off or discontinued any time whenever it is found that:
- 1) 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 related to utilities;
 - 2) Any charge for a municipal utility service, or any other financial obligation imposed on the present owner or occupant of the premises served, is unpaid after due notice;
 - 3) There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges.
 - 4) An Emergency condition exists as determined by the Emergency Board with a potential to threaten public drinking water supply
 - 5) A duly authorized employee of the City has been refused entry to private property if the Public Works Director has determined that such entry is necessary; or
 - 6) A temporary shut off is required by the City to complete maintenance, repairs, or replacement of the City's utility infrastructure.

C) Any time a municipal utility is disconnected, unless the situation is deemed an emergency by the Public Works Director, the City shall provide notice of the impending disconnection. The notice shall detail why the utility is being disconnected, when it will be disconnected, how the property owner can assure the utility will not be disconnected, that the property owner has the right to challenge the disconnection and charges, and who to contact to make such a challenge.

D) As provided for in M.S. 216B.097 the Cold Weather Rule, as it may be amended from time to time, no service of a residential customer shall be disconnected if the disconnection affects the primary heat source for the residential unit when the disconnection would occur during the period between October 15 and April 15, the customer has declared inability to pay on forms provided by the City, the household income of the customer is at or below 50 percent of the state median income level as documented by the City, and the customer's account is current for the billing period immediately prior to October 15 or the customer has entered into payment schedule and is reasonably current with payments on the schedule. The City shall, between September 1 and October 15, of each year, notify all residential customers a summary of the rights and responsibilities of these provisions.

30.09. METER READINGS.

A) Beginning on the 15th of each month the City of Montrose Public Works Department shall read all water meters either by remote radio read or by manual read in accordance with each particular route. An exception will be determined by the Public Works Director on the

manual read routes during the winter months due to deep snow cover making it impossible for a city employee to obtain meter readings safely. When this condition exists the Utility Billing Clerk will take the past 12 months usage to determine an average, and estimate the water usage for that particular month.

30.10. RIGHT OF ENTRY.

A) The City shall not enter a customer's premises if: the customer has not consented; or the City has not obtained a court order authorizing entry; or an emergency situation involving imminent danger to life or property does not reasonably appear to exist.

B) For monthly exterior manual water meter reading purposes consent is implied by acceptance of utility services to enter private property to obtain the monthly meter reading. Consent has to be granted by property owner before the authorized meter reader can obtain any interior manual water meter readings.

C) The City shall notify the jurisdictional law enforcement agency before entering the customer's premises without the customer's consent unless it would be unreasonable under the facts and circumstances to do so.

30.11. 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 building, attachment, 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 or alter in any way any municipal utility system without first having applied for and received written permission to do so from the City.

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

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

E) Any unmetered water service on the City distribution system is prohibited. Violators shall be subject to immediate disconnection of service and imposition of penalty.

30.12. SERVICE OUTSIDE AND INSIDE CITY.

A) No municipal utility service to premises outside the City shall be provided, except such as are being served on the effective date of this section.

B) Upon Annexation into the City, the affected properties have one year to connect to City utilities once they become available. In instances where only city water is available to

the property owner, the property owner may hook up to city water at that time, or delay utility connections until both city water and sewer services become available.

C) All properties within the City for which sewer and water are available must connect to those services within one year of both services becoming available. All properties within the City that has both sewer and water available shall be charged a Sewer Access Charge, a Water Access Charge, monthly base rates and if applicable a monthly charge for sewer service without water service.

D) In the event an owner shall fail to connect to a public sewer or water when required by this Code, the City may undertake to have said connection made and shall charge the cost thereof against the property and said charge shall be a lien against said property. Such charge, when made, shall bear interest at the rate of 1.5% over the prime interest rate per annum and shall be certified to the auditor of the county in which the land is situated and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City under this division shall be in addition to any other remedial or enforcement provisions of this chapter.

30.13. CONNECTION/TAPPING PROHIBITED; DELINQUENT.

A) No permit shall be granted to tap or connect with sewer or watermains when any assessment or connection charge for the sewer or watermain against the property to be connected is in default or delinquent.

B) If the assessment or connection charges are payable in installments, no permit shall be granted unless all installments then due and payable have been paid.

CHAPTER 31: SOLID WASTE

31.01.	DEFINITIONS.	49
31.02.	COLLECTION.	50
31.03.	ORGANIZED COLLECTION FOR RESIDENTIAL WASTE.	51
31.04.	YARD WASTE.	52
31.05.	RECYCLING.	53
31.06.	WASTE DISPOSAL FACILITIES.	54
31.07.	LIABILITY AND INDEMNIFICATION.	55

31.01. DEFINITIONS.

A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- 1) AGENCY. The State Pollution Control Agency.
- 2) CITY. The City of Montrose.
- 3) COLLECTOR. Any person who performs the act of waste collection.
- 4) COUNCIL. The City Council.
- 5) COUNTY. Wright County.
- 6) FLOODPLAIN. Any land that is subject to a 1% or greater chance of flooding in any given year from any source as defined and determined by FEMA.
- 7) GARBAGE. Discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food and any other putrescible waste.
- 8) LANDSPREADING. The placement of waste or waste byproducts on, or incorporation of them into, the soil surface.
- 9) LEACHATE. Liquid that has percolated through solid waste and has extracted, dissolved or suspended materials from it.
- 10) OPERATOR. The person or persons responsible for the operation of any facility.
- 11) OWNER. The person or persons who own a facility or any part of a facility.
- 12) PERSON. Any natural person, municipality, municipal corporation, county or any other governmental or political subdivision or public agency, any public or private corporation, any partnership, firm, association or other organization, any receiver, trustee, assignee, agent or other legal representative of any of the foregoing, or any other legal entity.
- 13) REFUSE. Putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings and market

and industrial solid wastes and municipal treatment wastes which do not contain free moisture.

- 14) **RELEASE.** Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, dumping or disposing into the environment which occurred at a point in time or which continues to occur.
- 15) **RUBBISH.** Nonputrescible solid wastes, including ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.
- 16) **BIOSOLIDS.** Any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant or air contaminant treatment facility or any other waste having similar characteristics and effects.
- 17) **SOURCE SEPARATION.** The segregation by the generator of recyclable and reusable materials and yard waste from mixed municipal solid waste for collection in a separate waste stream.
- 18) **WETLAND.** A surface water feature classified as a wetland by the State Department of Natural Resources Wetlands Inventory of the county or by a Technical Evaluation Panel under the laws of the Wetland Conservation Act.
- 19) **YARD WASTE.** Garden wastes, leaves, lawn cuttings, weeds and prunings.
- 20) **YARD WASTE COMPOSTING FACILITY.** A facility accepting yard waste originating on other property and processing that waste to produce a useable end product.

B) Other terms shall have the meaning given them in M.S. Ch. 115A.03, as it may be amended from time to time.

31.02. COLLECTION.

A) Responsibility for collection.

- 1) Residential mixed municipal solid waste.
 - a) The City shall provide for collection and disposal of all residential mixed municipal solid waste.
 - b) All residences within the corporate limits of the City shall be required to utilize the collection service provided by the City except such residences that at the time of the adoption of this Code are within the corporate limits of the City but are not using the City's collection service.
- 2) Commercial. Commercial establishments and multiresident buildings, including but not limited to apartments and condominiums, offices, manufacturing facilities, industrial facilities and retail sales establishments shall be responsible for the

satisfactory and prompt collection of all waste accumulated at a business establishment, industry or premises and its transportation to an appropriate waste disposal facility.

B) Generators.

- 1) Waste storage. Owners and occupants of any premises, business establishment or industry shall be responsible for storing the generated waste in a satisfactory manner that prevents threats to community health, safety and welfare. Storage of waste by any collector is prohibited within the limits of the City.
- 2) Garbage containers. Garbage shall be placed in a durable, rust resistant, non-absorbent, watertight, rodent proof cleanable container with a close fitting, fly-tight cover.
- 3) Refuse containers. Refuse must be stored in a durable, waterproof container. Where refuse and garbage are stored together, the container must meet the requirements for a garbage container.
- 4) Container size and type. Container types shall be approved by the City for the purpose intended and shall meet the above standards.
- 5) Container maintenance. All storage containers shall be maintained to prevent creation of a nuisance or any menace to public health.
- 6) Exceptions. Any objects or materials too large or otherwise unsuitable for storage containers shall be stored for collection in a pollution and nuisance free manner.

C) Collectors.

- 1) Residential. The collection of mixed municipal solid waste from residences in the City shall be by general City contract.
- 2) Commercial. Solid waste collection from commercial enterprises and multi-unit residential premises shall utilize free contracting between the generator and a collector, except as regulated by this chapter. The collector shall be subject to the requirements for containers, vehicles, liability for releases and all other conditions placed on contracted collectors by this chapter.

31.03. ORGANIZED COLLECTION FOR RESIDENTIAL WASTE.

A) The City shall provide, by contract, for the collection of all mixed municipal solid waste from all residential generators within the corporate limits of the City. The contract for the collection shall be maintained by the City and altered when the City, in its sole discretion and subject to applicable state statutes and rules, deems a change or modification in the contract is appropriate to protect the health, safety and welfare of the community. The contract shall include a clause, approved in form by the City Attorney, defending, indemnifying and holding the City harmless from all liability and damages relating to any intentional or negligent act of the collector.

B) The Council shall set the maximum fee that can be charged for collection. All collection fees shall be based on the volume of waste generated and collected.

C) Recyclable material shall be exempt from the organization of solid waste collection upon a showing by a generator or collector that the materials are or will be separated from mixed municipal solid waste by the generator, separately collected and delivered for reuse in their original form or for use in a manufacturing process.

D) Any non-contracted collector operating within the City and collecting residential mixed municipal solid waste shall be liable for any damage or threat to community health, safety and welfare and be subject to this chapter and the terms of the City collection contract just as if that collector was a contracted collector.

E) Collectors of waste shall utilize vehicles and containers that are covered, leak proof, durable, of easily cleanable construction and suitable for the type of waste being collected. The vehicles and containers shall be cleaned to prevent nuisances, pollution and insect breeding and shall be maintained in good repair and serviceable condition.

F) Material released from a collectors vehicle or container shall be picked up immediately and the area properly cleaned. If the material is hazardous in nature, the collector must immediately notify the City and comply with all other applicable statutes, rules and regulations.

G) Mixed municipal solid waste, source separated recyclable material and yard waste are the only materials authorized for regular collection. Waste, oil, lead acid batteries, any part of those batteries or new or used tires are prohibited as part of the mixed municipal solid waste stream.

H) Ownership of waste shall transfer from the generator to the collector upon collection. At no time shall ownership of any waste reside in the City. If the City comes into possession of any waste by responding to a release, ownership shall continue to rest in the person owning the waste when released.

31.04. YARD WASTE.

A) All persons who are owners, lessees or occupants of any building, commercial or residential, within the City that generates yard waste shall separate that yard waste from all solid waste. Commingling of yard waste and mixed municipal solid waste is prohibited.

B) Yard waste that is source separated shall be bagged or bundled and set out for disposal in accordance with policies established by resolution of the Council. Yard waste shall not be allowed to accumulate in excessive amounts representing a hazard to public health.

C) Yard waste generated in the City shall not be disposed of in any landfill.

D) Self composting of yard waste in a backyard composting facility or by leaving lawn clippings in place is encouraged as an efficient, safe and cost effective method of disposal for this waste.

31.05. RECYCLING.

A) Recycling shall be provided as part of the City's regularly contracted solid waste services. The City may enter into any contract it deems, in its sole discretion and subject to applicable state statutes and rules, appropriate for establishing and maintaining a recycling program in the City. The City shall charge for the provided recycling service regardless of whether a person chooses to use the provided service or not.

B) The contracted recycler is deemed the owner of the recyclables upon collection. In the event a drop-off location is established, ownership of recyclables shall transfer from the generator to the contracted recycler at the time of drop off.

C) Each shall submit a quarterly report to the City in the form and containing the information requested by the City administrative staff.

D) Recycling Requirements

- 1) The Council has determined that, at a minimum, the following recyclable materials are targeted for present or future recycling through the City recycling program.
 - a) Paper;
 - b) Cans, including aluminum and other metal;
 - c) Glass; and/or
 - d) Plastic.
- 2) Containers shall be maintained in a clean and sanitary condition. The style, type and construction material for any containers may be designated by the City.

E) Contracted Collector

- 1) The collection, removal and disposal of recyclable material shall be by City contract with a collector.
- 2) It shall be unlawful for any person other than the contracted collector, a City employee acting with authority or any other authorized person to distribute, collect, remove, disturb or dispose of recyclable materials after the materials have been placed or deposited for collection.

F) Collector Requirements.

- 1) Source separated recyclable materials shall be delivered for reuse in their original form or for use in a manufacturing process that does not cause the destruction of recyclable materials in a manner that precludes further use.
- 2) Disposal of source separated recyclable material in any manner other than as stated above shall operate to void the exemption from mixed municipal solid waste and bring the material within the full scope of this chapter.

- 3) The collector of the material in question shall be liable for all costs and charges relating to the proper disposal of the material after the exemption is void.

G) Nothing in this chapter shall abridge the right of any person to give or sell their recyclable materials to any recycling program lawfully operated for profit, non-profit or charitable purposes.

31.06. WASTE DISPOSAL FACILITIES.

A) No waste disposal facility of any type or kind shall be located in, on or within 300 feet of a floodplain or a wetland. This prohibition is not waivable and overrides any and all waivers or conditional uses allowed.

B) Location of any waste disposal facility, including, but not limited to a yard waste composting facility, a yard waste landspreading facility, a construction debris disposal facility, a mixed municipal solid waste disposal facility, an industrial waste disposal facility, a hazardous waste disposal facility, an infectious waste disposal facility or any waste incineration facility within the corporate limits of the City is prohibited without a permit granted in accordance with this chapter.

- 1) Backyard yard waste composting facilities are exempt from the facility prohibition to the extent that they do not have any deleterious effect on the public health, environment, surface water or groundwater.
- 2) Proof of the lack of deleterious effect is the burden of the generator.

C) It is within the discretion of the Council to grant a permit waiving the prohibition on waste disposal facilities on a site specific basis. The permit shall be requested and processed in the manner provided for in this Code for the application for a conditional use. This application for a permit shall include submission of facts and plans by the proposed operator and owner of the facility. If allowed by the Council, the facility must, at a minimum, conform to the rules promulgated by the Agency for the type of waste facility allowed.

- 1) Facts and plans shall contain the following materials, at a minimum, and any other materials requested by the Council.
 - a) Name of the site owner;
 - b) Name of the site operator;
 - c) Address of a contact person for the facility operation;
 - d) A telephone number for the contact person;
 - e) Location of the site;
 - f) An environmental impact statement or environmental assessment worksheet as applicable, including, but not limited to an assessment of the potential impact on surface and groundwater, the potential for litter, the

potential for particulate air pollution, the potential for runoff, the potential for leachate formation and the potential for excessive or offensive odors;

- g) A description of any processing of the waste;
- h) The plan for acceptance and disposal of the waste;
- i) The end product of the process and its planned disposition if the waste is processed;
- j) A description of steps to be taken to abate, ameliorate or negate the potential environmental hazards; and
- k) Any preliminary information or indications from the Agency or any other governmental or private organization relative to the potential hazards or problems with the site.

- 2) A decision to allow a facility constitutes a conditional use permit and the Council may attach conditions as are appropriate to protect the public health, safety and welfare and the environment.
- 3) As a required condition of granting a permit, any facility allowed within the City and its owners and operators shall provide a separate contract indemnifying and holding the City harmless against any and all intentional and negligent actions of the facility, its owners or operators, any employees or any agents of the facility.

D) The City may set up, operate and utilize a yard waste composting facility without a waiver.

31.07. LIABILITY AND INDEMNIFICATION.

A) Compliance with this chapter does not act to shift any liability legally accruing to the generator, collector or facility owner or operator to the City.

B) Each generator of waste residing within the City shall take all reasonable precautions necessary to protect the public from injury and shall defend, indemnify and save the City harmless from any liability, claims, damages, costs, judgments, expenses and claims of damages that may arise by reason of any tort claim for bodily or personal injury, disease, death or damage to property resulting directly or indirectly from an act or omission of the generator.

C) Each collector of waste operating within the City shall take all reasonable precautions necessary to protect the public from injury and shall defend, indemnify and save the City harmless from any liability, claims, damages, costs, judgments, expenses and claims for damages that may arise by reason of any tort claim for bodily or personal injury, disease, death or damage to property resulting directly or indirectly from an act or omission of the collector, its agents, employees or independent contractors.

D) Each facility of any type located within the City shall take all reasonable precautions necessary to protect the public from injury and shall defend, indemnify and save the City

harmless from any liability, claims, damages, costs, judgments, expenses and claims for damages that may arise by reason of any tort claim for bodily or personal injury, disease, death or damage to property resulting directly or indirectly from an act or omission of the facility owner or operator, their agents, employees or independent contractors.

CHAPTER 32: WATER

32.01.	CONNECTIONS	57
32.02.	PERMIT REQUIRED.....	58
32.03.	WATER METERS	58
32.04.	OWNERSHIP	60
32.05.	USERS' SERVICE PIPES.....	61
32.06.	CITY LIABILITY	62
32.07.	SERVICE INITIATION	62
32.08.	EMERGENCY BOARD.....	63
32.09.	FIRE HYDRANTS.....	63
32.10.	PRIVATE WELLS & WATER SUPPLY SYSTEMS PROHIBITED.....	64
32.11.	BACKFLOW PREVENTION	65
32.12.	CROSS CONNECTION CONTROL	65
32.13.	LAWN WATERING RESTRICTIONS	66

32.01. CONNECTIONS.

A) The purpose of the Water Access Charge (W.A.C) is to establish and impose just and equitable charges for the availability of certain municipal utility systems, including water works systems, and related facilities, and for the connections therewith, to pay for the construction, reconstruction, repair, enlargement, improvement, or other obtainment and maintenance, operation and use of such facilities. Such charges are authorized and shall be determined and imposed in accordance with Minnesota Statue Sections 444.075 and 429.021.

B) Water Access Charges (W.A.C) shall be levied against a property whenever a connection is made to the City of Montrose water system at a rate fixed by the City council, as adopted by ordinance, and may be amended from time to time. The connection fee is charged on a per unit basis and shall be collected at the time a building permit is applied for.

C) Computation of W.A.C Units.

- 1) Single Family Homes = 1 unit
- 2) Townhomes and Duplexes = 1 unit per dwelling
- 3) Multi-Family Dwellings with potential for laundry facilities included in each unit = 1 unit per dwelling.
- 4) Multi-Family Dwellings w/o potential for laundry included in each unit = 0.80 unit per dwelling.
- 5) Mobile Homes = 1 unit.
- 6) Low-income and subsidized housing units =85% of the calculated unit (i.e. 0.85 x 0.80 for LI Multi-Family Housing without private laundry facilities).

- 7) Other buildings and commercial structures based on usage equivalents as outlined in the most recent “Standard Criteria” published by the Metropolitan Waste Control Commission.
- 8) For more detailed information refer to the City of Montrose Water and Sewer Access Policies.

32.02. PERMIT REQUIRED.

A) No person shall open, make any connection with or opening into, use, alter or disturb any public water line or appurtenance thereof without first obtaining a developers agreement, building permit, right of way permit or other approval from the City Administrator.

B) No person, except a state licensed plumber, or a duly authorized employee or agent of the City, will be permitted to do any work on service pipes connected with the water system.

C) Application for water service shall be made on printed forms that are available at City Hall; they shall state the legal description, the PID, street and official house numbers of the premises to be supplied and the nature of the improvement to be done. Application shall be signed by the owner of the premises or his or her authorized agent or by the occupant or person in possession thereof. Each applicant, by application, shall subscribe to and be obliged to be bound by the rules and regulations.

D) The charge for tapping mains and the amount of the permit fee specified shall be paid at the time the application is submitted and before service is installed.

- 1) The plumber requesting the tap shall give notice at least one week in advance of the tap being made.
- 2) The plumber must help uncover the main and locate the tap if requested by the Public Works Director, or City Engineer.
- 3) The tap and service line up to and including the curb stop must be inspected, and approved by the Public Works Director, or City Engineer prior to any back filling being done.

E) The written permit must be on display at the site of work at all times.

F) A water access charge will be levied for each new tap made into the City water main or each new connection made to an existing water service that was tapped and installed previously in accordance with the WAC policy included in this Code.

G) The permit fees and water access charge fees for connecting to the water system is set forth annually by City Council Ordinance.

32.03. WATER METERS.

A) The City shall exclusively own and control the water meters to be used in the water system. All water meters shall be installed in accordance with the following regulations. All water meters shall be purchased by the property owner and the purchase is non-refundable.

- 1) Water meters shall be installed by the Public Works Department, homeowner, or a duly licensed plumber.
- 2) The meter shall be located so the bottom is from 12 to 18 inches above the finished floor line. The meter shall not be set more than 12 inches, measured horizontally, from the inside line of the basement wall. Deviation from these standards may be made only with written permission of the Public Works Director, or City Engineer. An approved yoke or horn shall be provided to support the meter in proper vertical position.
- 3) All meter installations shall have a ball valve on the street side of the meter. In no case shall there be more than 12 inches of pipe exposed between the point of entrance through the floor and the gate valve. A ball valve shall also be installed on the house side of the meter. The ball valves shall meet the following requirements: All valves shall be heavy duty brass, full port ball valves with handle and FIP threading. Valves shall be manufactured by A.Y. McDonald or Mueller. All valves shall be equipped with a stainless steel operating handle. Ball valve thread types can be modified from FIP to MIP to better accommodate existing fittings or meter setters.
- 4) The water service connecting with the curb stop shall not be run within any structure or under any basement floor for a distance of no more than two feet, measured from the inside foundation wall, before being connected to the water meter unless otherwise directed by the Public Works Director or City Engineer.
- 5) The consumer is prohibited from obstructing the meter so as to prohibit the reading or repairing of the meter.
- 6) It shall be unlawful for anyone to tamper with any water meter as to avoid charges for water.
- 7) It shall be unlawful for anyone to bypass a meter, or otherwise use City water without making just compensation thereof, except as may be specifically authorized in this chapter.
- 8) Any water meter twenty years old or older may be subject for replacement, which shall be purchased by the City at the property owner's expense, and shall be the maintenance responsibility of the City.

B) If any meters are damaged by freezing, hot water and of the like, either by carelessness or neglect of the owner or occupant of the premises or other agents, the owner or occupants must pay for the repair of the damages. The cost of ordinary maintenance and repairs of all meters owned by the City shall be borne by the City.

C) When a customer has a complaint that the bill for any past service period is excessive, the City shall have the meter reread on request. If the customer remains dissatisfied, they may, on a written request and payment of the deposit set annually by City council ordinance, have the meter tested. If the test shows an error in the City's favor exceeding 5% of the water consumed, the deposit shall be refunded, an accurate meter shall be installed, and the bill

adjusted accordingly. Such adjustment shall not extend back more than one service period from the date of the written request. In cases when the test shows an accurate measurement of the water or an error in favor of the customer, the amount deposited shall be retained by the City to cover expenses of making such test.

D) A water meter permit fee for connecting to the water system shall be paid by the user before any water meter is installed.

E) The fee shall be established by ordinance for a five- eighths-inch meter and remote reader. The fees for larger meters will be set according to their cost to the City. Fees paid are not refundable.

F) Any unmetered water service on the City distribution system is prohibited. Violators shall be subject to immediate disconnection of service and imposition of penalty.

G) A Second Water Meter is allowed for outside irrigation purposes only. The goal of the second irrigation water meter is to be more accurate in determining the residential wastewater usage by eliminating outside water usage that is not contributing to the waste water system.

- 1) Residential customers shall purchase the second irrigation water meter from the City to record water use only. The type of meter and the cost of the meter will be determined annually by the City.
- 2) Procedure to purchase.
 - a) Submit a building permit application (forms are available at City hall or on the City website) to install a second irrigation water meter.
 - b) After the City Building Inspector reviews and approves the second irrigation water meter permit application and the second water meter and associated permit fees are paid, the property owner shall be given the second irrigation water meter for installation.
 - c) Second irrigation water meter model and serial numbers are recorded to the property owner's utility account by the utility billing office.
- 3) Purchase of the second irrigation water meter is not refundable.
- 4) The property owner shall inform the City Building Inspector when the second irrigation meter has been installed so that the Building Inspector can inspect the meter to ensure that it has been properly installed and sealed.
- 5) The second irrigation water meter shall not reflect a base rate charge, or sewer charge.

32.04. OWNERSHIP.

A) For Residential users, the City shall own, operate, and be responsible for the portion of the service line from the main up to and including the curb stop or gate valve shut off.

The service pipe from the curb stop/gate valve to the meter and the connections thereto shall be the property of the user.

B) For Commercial/Industrial users, the City shall own, operate and be responsible for the portion of the service line from the main to the right of way line. The service pipe from the right of way line to the meter and the connections thereto shall be the property of the user.

32.05. USERS' SERVICE PIPES.

A) The pipe must be protected and maintained by the property owner.

B) The service pipe from the City curb stop to the meter shall be three-fourths-inch type K copper pipe or Polyethylene (PE) pipe as specified unless otherwise directed by the Public Works Director or City Engineer to comply with the Minnesota State plumbing Codes.

- 1) Polyethylene (PE) pipe shall be ENDOD ENDOPURE.
- 2) PE pipe shall conform to Grade PE-3408 or PE-4710 pipe and shall be rated for 200PSI working pressure, SODR 9
- 3) PE pipe shall conform to ASTM D-1248 & D-2737 for Copper Tube Size, outside diameter controlled.
- 4) PE water service pipe connections shall be compression type.
- 5) PE pipe shall be permanently marked at 2 foot intervals indicating Manufacture, PE material type, Date of manufacture etc.
- 6) Type 304 stainless steel pipe inserts/stiffeners shall be furnished and installed in the end of the PE pipe at all connections.
- 7) PE pipe inserts shall meet requirements of AWWA C901 and ASTM 240-92B.

C) All joints on copper tubing shall be flared or compression-fitted and kept to a minimum.

D) No joints shall be used for a service up to one hundred feet in length, and then only one joint for each additional one hundred feet in length.

E) All service lines including the curb stop connection, and any joints, must be left uncovered until inspected and approved by the Public Works Director, or City Engineer .

F) The service pipe from the City water main to the curb stop and the curb stop box and cover at the main and the boulevard are the property of the City and all persons are forbidden to interfere with them.

G) The service pipe shall be placed not less than eight feet below the surface in all cases so arranged as to prevent rupture and stoppage by freezing.

H) In the event the user shall fail to make any necessary repairs to the service connections or pipe within 24 hours after being notified to do so by the Public Works Director, the Director shall forthwith disconnect the City water from the premises.

I) The installation of new service piping including curb stops in or underneath driveways, unless otherwise directed and approved by the Public Works Director or the City Engineer is prohibited.

J) The service pipe from the City curb stop to the meter, where the water enters the building, shall be brought through the floor in a vertical position.

K) Service pipes larger than two inches in diameter shall be ductile iron.

L) All service pipes which become frozen between the curb stop and the premises served shall be thawed at the expense of the property owner. Any frozen pipes from the water main to the curb stop shall be thawed at the expense of the City. It shall be strictly prohibited to use any type of electrical device to thaw frozen pipes.

M) All buildings with a fire sprinkler system shall have a separate fire suppression system service line and domestic water service line. A shut off valve shall be located on each line no less than 5 feet away from the building. The services may be combined into 1 pipe within 5 feet of the building.

32.06. CITY LIABILITY.

A) The City shall not be liable for any damages resulting from stopping of the supply or flow of water as the result of breaks in any mains, service pipes or fixtures, by reason of the breaking of machinery or stoppage for necessary repair or any other interruption of service.

B) The City will be responsible for service leaks from the main up to and including the curb stop.

C) The City shall bear the responsibility, and expense to restore any public road right-of-way (boulevard, sidewalk, curb, gutter, and street) to City specifications when the damage is a result of a problem in the main up to and including the curb stop. When the damage is a result of a problem in the service line from the curb stop to the connection to the individual property, the property owner shall bear the responsibility and expense to restore any public road right-of-way (boulevard, sidewalk, curb, gutter, and street) to City specifications.

D) In any repair related to a public main, the City will not replace any private infrastructure and items such as landscaping, trees, driveway surfacing, etc. Boulevards and utility easement areas will be brought up to grade, raked out, and seeded down with grass seed. Driveway areas will be brought up to grade with class 5 and it shall be the property owner's responsibility to replace any surfacing. The City will restore any private streets to the satisfaction of the Public Works Director.

32.07. SERVICE INITIATION

A) No person shall turn on City water to any premises without having written authorization from the City and until a meter has been placed on the service and in a manner

that it will register all water consumed and all other parts of the plumbing and pipe fittings in and about the pipes are in full compliance with the rules and regulations of this chapter and all other applicable regulations.

- 1) No person shall make any connection with any service pipe between the curb stop and the meter.
- 2) No person shall make any replacement tap or connect any tap or connection in any water main without shutting off the water in the old tap or connection at the connection point in the water main.
- 3) No water will be turned on until all charges and fees are paid, including any unpaid usage charges and late payment penalties for the premises.

32.08. EMERGENCY BOARD.

A) Because critical shortages of water may result from time to time and the shortage may come about suddenly, the following emergency procedures are hereby established. These procedures must be followed at all times, when the Emergency Board, hereinafter established, determines that any emergency exists. The Emergency Board shall consist of the Mayor and the Public Works Director.

- 1) Whenever, in the judgment of the Emergency Board, the pressure or quantities of water in any part of the City water system have become or are about to become inadequate for fire or other needs, the Emergency Board shall declare a water emergency and shall impose necessary water use restrictions to abate the emergency and shall post and publicize the restrictions.
- 2) Notice of confirmed, modified, or the removal of water restrictions shall be published in the City's official and legal newspaper, and City website at the first opportunity, and as such, other times as the Emergency Board deems reasonably necessary.
- 3) The water restrictions shall remain in effect until removed by the action of the Emergency Board.
- 4) If necessary to preserve the public health, safety and welfare and/or the water supply system during an emergency, the Emergency Board may terminate water service to any or all users.
- 5) If the termination of water service is determined by the Emergency Board to last beyond the initial emergency duration, an extension of the termination shall be recommended from the Emergency Board for City Council approval.

32.09. FIRE HYDRANTS.

A) All fire hydrants erected within and by the City for fire extinguishing purposes, shall hereby be declared to be public hydrants unless specified under a separate City approved agreement. Except for the Director of Public Works, no person other than members of the fire department of the City, and then only for the uses and purposes of the department, shall

open any hydrant, or remove, or attempt to remove there from any matter or thing designated or intended for the protection of the hydrant or in any manner interfere or intermeddle with any hydrant. The Public Works Director of the City or its agent may grant any suitable person permission to open any hydrant, and draw water therefrom, in which event such person shall not open the hydrant to any greater extent, nor keep the hydrant open any greater length of time, nor draw water therefrom for any purpose, not in any greater quantity than may be specified in the permit. No person authorized to open hydrants shall delegate his or her authority to another nor let out or permit any person to take wrenches furnished him or her, nor permit the wrenches to be taken from any facility of the City, except for purposes strictly connected with the fire department, or as they accompany firefighting equipment at fires.

B) Private Use of hydrants. No hydrants, except public drinking fountains, shall be placed within the public right of way of any street, unless such hydrants are securely closed and protected against general use.

C) Drinking Fountains. No drinking fountains shall be erected for public use which have openings by which they can be used as a source of domestic water supply.

D) Private Hydrants. If proprietors of lumber yards, manufacturing establishments, halls, stores, elevators, warehouses, hotels, mobile home parks, or public buildings, who are hooked up to the City water supply, wish to lay large pipes with hydrants and hose couplings to be used only in case of fire, they shall be permitted to connect with street mains at their own expense, upon application to the City Council, and under its direction. The City shall have the right to inspect and flush the hydrants when deemed necessary with all associated maintenance costs being the responsibility of the hydrant owner.

32.10. PRIVATE WELLS & WATER SUPPLY SYSTEMS PROHIBITED.

A) For the purpose of this section, the following definition shall apply unless context clearly indicates or requires a different meaning.

1) Private Water Supply System. A system owned and operated by a person for collection and delivery of piped water into commercial, industrial or residential buildings or structures.

B) No water pipe of the municipal water supply 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 Public Works Director or City Engineer shall notify the owner or occupant to disconnect the same and, if not done immediately, the water supply shall be turned off.

C) The City of Montrose is required to comply with the State mandated wellhead protection program. The City must protect the aquifer from contamination from private as well as public sources within its jurisdiction. The City must also protect the public water system from contaminating cross-connections made from private wells. These connections are very hard to regulate. For that reason, the City of Montrose prohibits private water wells or any private water supply system where City water is available. Any property that contains

a private water well or private water supply system must discontinue use of the well or system and connect to City water within 1 year of City water becoming available.

D) A licensed well contractor must properly seal any existing private well at the owner's expense that is within City Limits.

E) The City Council may allow the use of an existing private well if the following conditions exist:

- 1) The well is located on property within the Urban Reserve Zoning District; and
- 2) The well is being utilized for agricultural purposes only.

32.11. BACKFLOW PREVENTION

A) Approved devices or assemblies for the protection of the potable water supply must be installed at any plumbing fixture or equipment where backflow or back-siphonage may occur and where a minimum air gap cannot be provided between the water outlet to the fixture or equipment and its flood level rim.

B) Any device or assembly for the prevention of backflow or back-siphonage installed shall have first been certified by a recognized testing laboratory and have a certification number clearly visible on the device. AWWA, ASSE, and USC are the certified labs recognized by the City Public Works Director, City Engineer, and City Inspectors.

C) The installation of reduced pressure backflow preventers shall be permitted only when a periodic testing and inspection program conducted by qualified, accredited personnel will be provided by an agency acceptable to the Public Works Director or the City Engineer. Inspection intervals shall not exceed one year, and overhaul intervals shall not exceed five years. The Public Works Director or the City Engineer may require more frequent testing if deemed necessary to assure protection of the potable water. Backflow preventers shall be inspected frequently after initial installation to assure that they have been properly installed and that debris resulting from piping installation has not interfered with the functioning of the assembly.

32.12. CROSS CONNECTION CONTROL.

A) Cross connection between potable water systems and other systems or equipment containing water or other substances of unknown or questionable safety are prohibited, except when and where, as approved by the Public Works Director or City Engineer having jurisdiction, suitable protective devices such as air breaks, break tanks, RPZs or equal, are installed, tested, and maintained to insure proper operation on a continuing basis.

B) All industrial and commercial customers must have their facilities inspected and audited by a qualified accredited person from any agency approved by the Public Works Director or the City Engineer. The inspection is to determine whether all applicable plumbing fixtures and/or processes that require backflow and cross connection control devices have the appropriate control devices installed and that they are installed properly and that all appropriate maintenance has been performed to date. The audit will show a listing of all such

devices, make and model, serial number, and ASSE, AWWA or USC number. The accredited person and /or agency shall submit a signed certified report to the City Public Works Department and the facility that the person and/or agency is doing the work for. These records will be kept for a period of 7 years. A new inspection of the entire facility is required whenever a substantial modification to the existing facility is done. A new audit is required whenever control devices are replaced or added. The Public Works Director or the City Engineer may require more frequent inspections or audits if deemed necessary to assure protection of the potable water system.

32.13. LAWN WATERING RESTRICTIONS.

A) The Public Works Director shall be given the authority to implement emergency lawn watering restrictions to restrict water use during such periods. The Public Works Director shall notify utility users of a watering ban by publishing notice in the City's legal newspaper, City web site and/or local television station or radio station.

B) **Stage 1 (Mild):** A request for voluntary reduction measures will be implemented when City wells operate for more than 20 hours per day for 3 consecutive days or as deemed necessary by the Public Works Director.

C) **Stage2 (Moderate):** Residents with an odd house number shall water lawns or wash cars when necessary only on odd numbered calendar days, and those with even numbered addresses shall water lawns or wash cars only on even numbered days. Lawns shall not be watered between the hours of 10:00am and 6:00pm. This mandatory reduction measure will be implemented when City wells operate for more than 20 hours per day for 5 consecutive days or as deemed necessary by the Public Works Director.

D) **Stage 3 (Severe):** In extreme cases, the Public Works Director shall have the authority to issue a total watering ban until such time the situation ceases to exist. This mandatory ban will be implemented when the City wells operate for more than 20 hours per day for 7 consecutive days or as deemed necessary by the Public Works Director.

E) **Critical Water Deficiency under M.S.103G.291.** As authorized by Executive Order from the Governor and as provided in the above stages.

F) An exception may be granted for recently established lawns. Those lawns may be watered daily for up to one month after installation, but only during the hours listed above.

G) The penalty for violating the Utilities watering ban shall be a warning for the first day of violation, a \$25.00 per day fine for the second violation, and a \$50.00 per day fine for the third violation.

CHAPTER 33: SEWERS

33.01.	PURPOSE AND POLICY	67
33.02.	DEFINITIONS.	67
33.03.	CONNECTIONS.	71
33.04.	BUILDING SEWERS AND CONNECTIONS.....	72
33.05.	OWNERSHIP.	73
33.06.	CITY LIABILITY.	73
33.07.	CONNECTIONS, ALTERATIONS, MAIN AND LATERAL SEWERS.	74
33.08.	PROTECTION FROM DAMAGE.	74
33.09.	USE OF PUBLIC SEWERS.....	74
33.10.	PRIVATE SYSTEMS PROHIBITED.....	75
33.11.	INDUSTRIAL USES AND USERS.....	75
33.12.	LIMITATIONS ON WASTEWATER STRENGTH.	75
33.13.	DISCHARGE OF CERTAIN MATERIALS PROHIBITED.....	75
33.14.	ACCIDENTAL DISCHARGES.....	79
33.15.	MONITORING.....	79
33.16.	CONFIDENTIAL INFORMATION.	81
33.17.	REGULATION OF GARAGE FLOOR DRAINS	81
33.18.	SUMP PUMPS	84

33.01. PURPOSE AND POLICY.

A) This chapter sets forth uniform requirements for discharges of wastewater to the City's facilities and enables the City to comply with all state (Minnesota Pollution Control Agency) and federal (U.S. Environmental Protection Agency) laws.

B) The objectives of this chapter are:

- 1) To prevent the introduction of pollutants into the City's facilities which will interfere with the operation of the facilities or the treatment or disposal of wastewater;
- 2) To provide for the efficient and safe collection, conveyance and treatment of wastewater from the City.

C) This chapter provides for the regulation of discharges into the City's wastewater facilities through enforcement of the general requirements for all users, authorizes monitoring and enforcement activities, provides for penalty relief, requires user reporting, and provides for the setting of fees necessary to carry out the program established herein.

D) This chapter shall apply to the City and users of the City's facilities.

33.02. DEFINITIONS.

A) Unless the context specifically indicates otherwise, the following terms, as used in this chapter, shall have the meanings hereinafter designated.

- 1) ACT. The Federal Water Pollution Control Act, Public Law 92-500 and the Clean Water Act, Public Law 95-217 as amended.

- 2) **BUILDING DRAIN.** 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 (1.5 meters) outside the inner face of the building wall.
- 3) **BUILDING SEWER.** The extension from the building drain to the public sewer or other place of disposal.
- 4) **CARBONACEOUS BIOCHEMICAL OXYGEN DEMAND (CBOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter, in the presence of a nitrification inhibitor, under standard laboratory procedures in five days at 20°C expressed in terms of weight and concentration (milligrams per liter-mg/l).
- 5) **CHEMICAL OXYGEN DEMAND.** The quantity of oxygen utilized in the chemical oxidation of organic matter, expressed in milligrams per liter, as determined in accordance with standard laboratory procedure as set out in the latest edition of Standard Methods of the Examination of Water and Wastewater.
- 6) **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.
- 7) **DIRECTOR.** The Public Works Director.
- 8) **DOMESTIC WASTE.** Wastes from residential users and from the sanitary conveniences of multiple dwellings, commercial buildings, institutions, and industrial facilities.
- 9) **EPA.** The U.S. Environmental Protection Agency.
- 10) **FACILITIES.** The system of trunk and lateral lines, gravity and force mains, pumps, lift stations, wastewater water treatment facilities and other appurtenance constructed to collect and convey wastewater from the City.
- 11) **FLOW.** The quantity of wastewater expressed in gallons or cubic feet per 24 hours.
- 12) **GARBAGE.** Solid wastes resulting from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage of meat, fish, fowl, fruit, vegetables, and condemned food.
- 13) **GENERAL PRETREATMENT REGULATIONS.** The general pretreatment regulations for existing and new sources of pollution promulgated by the EPA under § 307(b) and (c) of the Act and found at 40 CFR Part 403.
- 14) **INDIRECT DISCHARGE.** The introduction of pollutants or wastes into the facilities from any non-domestic source regulated under § 301(b), (c), or (d) of the Act.

- 15) **INDUSTRIAL USER.** A source of indirect discharge.
- 16) **INDUSTRIAL WASTE.** Solid, liquid, or gaseous wastes, including cooling water, resulting from any industrial, manufacturing, or business process, or from the development, recovery, or processing of a natural resource.
- 17) **INTERFERENCE.** A discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the facilities, the City's treatment processes or operations or the City's biosolids processes, use or disposal and, therefore, is a cause of a violation of any requirement of any NPDES permit or of the prevention of sewage biosolids use or disposal with statutory provisions and regulations or permits.
- 18) **MAY.** The act is permissive.
- 19) **MPCA.** The Minnesota Pollution Control Agency.
- 20) **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 wastewater, industrial wastes, or other wastes under the authority of § 402 of the Act.
- 21) **ORDINANCE.** The set of rules contained herein and in the City's Sewer Rate and Cost Recovery Ordinance.
- 22) **OTHER WASTES.** Other substances except wastewater and industrial wastes.
- 23) **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.
- 24) **pH.** The logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.
- 25) **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 facilities. The reduction, elimination, or alteration may be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by this chapter.
- 26) **PRETREATMENT STANDARDS.** Standards for industrial groups (categories) promulgated by the EPA pursuant to the Acts which regulate the quality of

effluent discharge to publicly owned treatment works and must be met by all users subject to such standards.

- 27) **PUBLIC UTILITY.** The unit of municipal government and its people responsible for the operation of the facilities and this chapter.
- 28) **PUBLICLY OWNED TREATMENT WORKS (POTW).** The treatment works as defined by § 212 of the Act, which is owned by the municipality (as defined by § 502(4) of the Act). This includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW plant. The term also means the municipality as defined in § 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works plant.
- 29) **RULES.** The waste discharge rules for the City's disposal system contained herein.
- 30) **SANITARY SEWER.** A sewer which carries wastewater and to which storm, surface, and groundwater are not intentionally admitted.
- 31) **SEWAGE BIOSOLIDS.** Solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant.
- 32) **SEWER.** A pipe or conduit for carrying wastewater, industrial waste, or other waste liquids.
- 33) **SEWER SYSTEM.** Pipelines or conduits, pumping stations, force mains, and all other devices and appliances appurtenant thereto, used for collecting or conducting wastewater.
- 34) **SHALL.** The act is mandatory.
- 35) **SLUG.** Any waste discharge which, in concentration of any given constituent or in quantity of flow, exceeds four times the average 24-hour concentration or flow during normal operation which may, by itself or in combination with other wastes, cause an interference within the POTW.
- 36) **STATE.** The State of Minnesota or its designated agency, the Minnesota Pollution Control Agency (MPCA).
- 37) **STORM SEWER or STORM DRAIN.** A sewer which carries storm and surface water and drainage, but excludes wastewater and industrial wastes, other than unpolluted cooling or process water.
- 38) **STORMWATER.** Any flow occurring during or following any form of natural precipitation and resulting therefrom.

- 39) SUSPENDED SOLIDS (SS). 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.
- 40) TOTAL TOXIC ORGANICS. The summation of all values greater than 0.01 mg/l of toxic organics listed in § 307(A) of the Act.
- 41) UNPOLLUTED WATER. Clean water uncontaminated by industrial wastes, other wastes, or any substance which renders such water unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety, or welfare, to domestic, commercial, industrial, or recreational use, or to livestock, wild animals, birds, fish, or other aquatic life.
- 42) USER. Any person who discharges, causes, or permits the discharge of wastewater into the facilities.
- 43) WASTE TRANSPORT HAULER. An industrial user who transports industrial or domestic waste for the purpose of discharge into the City's POTW.
- 44) WASTEWATER. The liquid and water- carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is discharged into or permitted to enter the facilities.

33.03. CONNECTIONS.

A) The purpose of the Sewer Access Charge (SAC) is to establish and impose just and equitable charges for the availability of certain municipal utility systems, including the city sewer system, and related facilities, and for the connection therewith, to pay for the construction, reconstruction, repair, enlargement, improvement, or other obtainment and maintenance, operation and use of such facilities. Such charges are authorized and shall be determined and imposed in accordance with Minnesota Statue Sections 444.075 and 429.021.

B) Sewer Access Charges (S.A.C) shall be levied against a property whenever a connection is made to the City of Montrose sewer system at a rate fixed by the City Council, as adopted by ordinance, and may be amended from time to time. The connection fee is charged on a per unit basis and shall be collected at the time a building permit is applied for.

C) Computation of S.A.C Units.

- 1) Single Family Home = 1 unit
- 2) Townhomes and Duplexes = 1 unit per dwelling
- 3) Multi-Family Dwellings with a potential for laundry facilities included in each unit = 1 unit per dwelling.
- 4) Multi-Family Dwellings w/o potential for laundry included in each unit = .80 unit per dwelling.

- 5) Mobile Homes = 1 unit.
- 6) Low- income and subsidized housing units = 85% of the calculated unit (i.e. 0.85 x 0.80 for LI Multi-Family Housing without private laundry facilities).
- 7) Other buildings and commercial structures based on usage equivalents as outlined in the most recent “Standard Criteria” published by the Metropolitan Waste Control Commission.
- 8) For more detailed information refer to the City of Montrose Water and Sewer Access Policies.

33.04. BUILDING SEWERS AND CONNECTIONS.

A) No person, unless authorized, shall uncover, make any connections with, or disturb any portion of the facilities, except in accordance with the applicable provisions of this title.

B) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify and hold harmless the City from any loss or damage to the facilities that may directly or indirectly be occasioned by the installation of the building sewer.

C) A separate and independent building sewer shall be provided for every building, unless a special permit is issued by the City for extenuating circumstances. Such a permit shall require a written agreement between the property owners and the City as to the share of the costs of construction and maintenance that each will contribute.

D) Old building sewers may be used in connections with new buildings only when they are found, upon examination and testing by the City at the property owner’s expense, to meet all requirements of this chapter.

E) The size, slope, alignment, materials of construction of a building sewer, and the method 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 other applicable rules and regulations. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of Water Pollution Control Federation Manual of Practice No. 9 and applicable American Society of Testing and Materials (ASTM) standards shall apply.

F) 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, such building drain shall be provided with a lifting device approved by the City and discharged to the building sewer.

G) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain that is connected directly or indirectly to the facilities.

H) The construction of the building sewer and its connection to the facilities shall conform to the requirements of the building and plumbing codes, the sewer specifications

included herein, or other applicable rules and regulations and the procedures set forth in appropriate specifications of the Water Pollution Control Federation Manual of Practice No. 9, and the American Society for Testing and Materials (ASTM). All such construction shall be made gas-tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the City before installation.

I) The City shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the connection shall notify the City when the work is ready for final inspection and no underground portions shall be covered before the final inspection is completed. The connection shall be made under the supervision of the City or its representative.

J) Any new connections to the facilities shall be prohibited unless sufficient capacity is available in all downstream portions of the facilities and at the POTW, including, but not limited to capacity for flow, CBOD and suspended solids, as determined by the City.

33.05. OWNERSHIP.

A) The City shall own, operate and be responsible for the public sewer main lines. The sewer service line including the connection of the sewer service line to the sewer main line shall be the property of the user.

33.06. CITY LIABILITY.

A) The City shall not be liable for any damages resulting from stopping of the septic system as the result of breaks in any sewer mains, sewer service pipes or fixtures, by reason of the breaking of machinery or stoppage for necessary repair or any other interruption of service.

B) The City will be responsible for the mainline sanitary sewer. The City is not responsible for anything between the sewer main and the connection to the property, including the service wye on the sewer main.

C) The City shall bear the responsibility and expense to restore any public road right-of-way (boulevard, sidewalk, curb, gutter, and street) to City specifications when the damage is a result of a problem in the main. When the damage is a result of a problem in the service line from the connection to the main to the connection to the individual property, the property owner shall bear the responsibility and expense to restore any public road right-of-way (boulevard, sidewalk, curb, gutter, and street) to City specifications.

D) In any repair related to a public main, the City will not replace any private infrastructure and items such as landscaping, trees, driveway surfacing, etc. Boulevards and utility easement areas will be brought up to grade, raked out, and seeded down with grass seed. Driveway areas will be brought up to grade with class 5 and it shall be the property owner's responsibility to replace any surfacing. The City will restore any private streets to the satisfaction of the Public Works Director.

33.07. CONNECTIONS, ALTERATIONS, MAIN AND LATERAL SEWERS.

A) No person, unless authorized, shall uncover, make any connections with or opening into, use, alter, or disturb any portion of the facilities without first obtaining a written permit from the City. The City may charge a reasonable permit fee to cover the costs of inspections associated with alterations or connections to the facilities as well as administrative expenses incurred by the City on account of such alterations and connections.

B) No main or lateral sewer shall be constructed in the City (except house or building service sewers) except by the City. No such main or lateral sewer shall be considered to be a part of the facilities unless accepted by the City.

C) No lift station or check valve shall be installed on any portion of the facilities (except house or building service sewers) except by the City. No such lift station or check valve shall be considered to be a part of the facilities unless accepted by the City.

D) The size, slope, alignment, material of construction, methods to be used in excavation, placing of pipe, jointing, testing, backfilling and other work connected with the construction of sewers shall conform to the requirements of the City.

33.08. PROTECTION FROM DAMAGE.

A) No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the facilities.

33.09. USE OF PUBLIC SEWERS.

A) It shall be unlawful to discharge into any natural outlet within the City or in any area under the jurisdiction of the City any wastewater or other polluted water.

B) It shall be unlawful within the City to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater. Temporary portable toilet facilities may be permitted by special permit issued by the City for the purpose of providing toilet services for construction projects or special events or purposes.

C) Construction of any new structures within the City from which wastewater is or shall be discharged shall not occur without first securing a connection to the facilities.

D) On commercial or industrial property, when there is going to be any change in sewer use, including but not limited to flow, volume, type or strength, the property owner must notify the City of the change and obtain City approval before any change can occur.

E) No person shall discharge or cause to be discharged directly or indirectly any stormwater, surface water, groundwater, roof runoff, subsurface drainage, unpolluted cooling or process water to the facilities unless there is no prudent and feasible alternative and unless as approved by the City.

F) Stormwater and all other unpolluted water shall be discharged to a storm sewer or other appropriate outlet, subject to existing regulatory requirements including the requirement to obtain an NPDES permit by the MPCA, when necessary.

33.10. PRIVATE SYSTEMS PROHIBITED.

A) All private septic systems and other similar facilities shall be properly abandoned or removed within one year of both sanitary sewer and water service becoming available. Where both septic sewer and water service is available private septic systems are prohibited.

33.11. INDUSTRIAL USES AND USERS.

A) All industrial users are required to meet all State and MPCA regulations and must submit to the City a copy of the required State and MPCA permits.

33.12. LIMITATIONS ON WASTEWATER STRENGTH.

A) Federal Pretreatment Standards. Federal Pretreatment Standards and General Regulations 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 chapter unless the Director has applied for, and obtained from the MPCA, approval to modify the specific limits in the federal pretreatment standards. In all other respects, industrial users subject to pretreatment standards shall comply with all provisions of these rules and any permit issued thereunder, notwithstanding less stringent provisions of the general pretreatment regulations or any applicable pretreatment standard.

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 chapter.

C) City's right of revision. The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the facilities if deemed necessary to comply with the objectives of this chapter.

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 any local or state requirements or federal pretreatment standards.

E) Reports. Reports specified in 40 CFR 403.12 of the General Pretreatment Regulations shall be submitted to the City by affected users.

33.13. DISCHARGE OF CERTAIN MATERIALS PROHIBITED.

A) No person shall discharge or cause or allow to be discharged, directly or indirectly, into the facilities any of the following waste pollutants containing concentrations in excess of the following maximum limitations for any operating day:

- 1) All waste of any type generated from any source outside the designated sewer service area as provided for in this chapter.
- 2) All waste generated from septic tank contents, privy vault contents, sewage holding tanks and the like generated from within the limits of the designated sewer service area.
- 3) Any wastes which may directly or indirectly impair the proper functioning of the City's POTW.
- 4) Any wastes the strength or pollutional effects of which are not effectively altered by ordinary treatment processes, or the presence of which in the receiving stream would violate state and federal water quality standards.
- 5) 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 City's POTW or to the operation of the facilities. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, and any wastes with a closed- cup flash point of less than 140°F (60°C).
- 6) Solid or viscous substances that will or may cause obstruction to the flow in a sewer or other interference with the operation of the City's POTW, such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshing, 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.
- 7) Any wastewater having a pH less than 6.0 or more than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the City's POTW.
- 8) 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 treatment system. A TOXIC POLLUTANT shall include, but not be limited to, any pollutant identified pursuant to § 307(a) of the Federal Water Pollution Control Act as amended.
- 9) 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.
- 10) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

- 11) Any wastewater which creates conditions at or near the City's POTW that violate any statute or any rule, regulation, or ordinance of any public agency or state or federal regulatory body.
- 12) Any wastewater with CBOD in excess of 260 mg/l and TSS in excess of 280 mg/l.
- 13) Any wastewater having a temperature greater than 150°F (65.6°C), or causing, individually or in combination with other wastewater, the influent at the City's POTW to have a temperature exceeding 104°F (40°C) or having heat that will inhibit biological activity in the City's POTW resulting in interference.
- 14) Any SLUG LOAD, which shall mean any pollutant, including oxygen demand pollutants (CBOD, and the like), released in a discharge of such volume or strength as to cause inhibition or disruption in the City's treatment works.
- 15) Non-contact cooling water or unpolluted storm or ground water.
- 16) Concentrations of mineral or animal origin of greater than 50 mg/l whether or not emulsified.
- 17) Wastewater containing inert suspended solids, such as, but not limited to, fuller's 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 City's POTW.
- 18) Radioactive wastes or isotopes of such a half-life or concentration that they are in non-compliance with standards issued by the appropriate authority having control over their use and which will or are likely to cause damage or hazards to the City's POTW or the personnel operating it.
- 19) Wastewater containing the following substances in excess of the limits shown herein:

Pollutants	Maximum Allowable Concentration*(mg/l)
Arsenic	0.13
Cadmium	0.091
Chromium, total	2.28
Copper	2.76
Cyanide, total	3.11
Lead	0.79
Mercury	0.016

Molybdenum	0.11
Nickel	0.75
Selenium	0.19
Silver	0.56
Zinc	4.23

*Based on a 24-hour flow proportional composite sample of a total discharge from the facilities.

B) Fats, Oils, and Grease.

- 1) Any wastewater containing fats, oils, or grease whether emulsified or not, in excess of 50 mg/l or containing substances that may solidify or become viscous at temperatures between 32 ° F (0°C) and 150°F (65.6°C); or as identified in the most current EPA method as listed in 40-CFR 136.3 shall be pre-treated by the User in accordance with the City of Montrose Fats, Oils and Grease Management Policy. All operation, maintenance, management and reporting of the pre-treatment operations shall also be in accordance with the City of Montrose Fats, Oils and Grease Management Policy.

C) All Waste Transport Hauler activity, dumping, and discharge is prohibited within City limits.

D) Connection to System.

- 1) It is unlawful for any person to make or maintain a connection between eave troughs, rainspouts, footing drains, or any other conductor used to carry natural precipitation or groundwater, and the sanitary system or any part thereof.
- 2) Any property owner in violation of this section and upon receiving notice of said violation, shall disconnect the conductor from the facilities. Any property owner in violation of this section shall be assessed a monthly surcharge, the amount of which will be established by the Council, for each month that the conductor is not permanently disconnected. Failure to permanently disconnect the conductor, or reconnection of a disconnected conductor, may result in the suspension of facilities.

E) It is unlawful for any person to construct, alter or extend any sewer connected or proposed to be connected to the facilities without first having the plans and specifications therefor approved by the City.

F) It is unlawful for any owner, tenant, agent, occupant, or other person having charge of any premises to maintain thereon any drain or sewer connected with the facilities in a

clogged, obstructed, broken or damaged condition, or not in conformance with the existing plumbing code.

G) It is unlawful for any person to discharge, or cause or permit to be discharged, any sewage or unhealthful matter into any lake, natural ravine, or public waters.

H) It is unlawful to discharge stormwater or any other unpolluted drainage anywhere other than a specifically designed storm sewer or to a natural outlet approved by the City and other regulatory agencies.

33.14. ACCIDENTAL DISCHARGES.

A) Accidental discharges of prohibited waste into the facilities, directly or through another disposal system, or to any place from which such waste may enter the facilities, shall be reported to the City by the persons responsible for the discharge, or by the owner or occupant of the premises where the discharge occurred, immediately upon obtaining knowledge of the fact of such discharge. 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. The responsible person shall take immediate action as is reasonably possible to minimize or abate the prohibited discharge.

B) The responsible person shall send a letter describing the prohibited discharge to the City within seven days after obtaining knowledge of the discharge. The letter shall include the following information:

- 1) The time and location of the spill;
- 2) Description of the accidentally discharged waste, including estimate of pollutant concentrations;
- 3) Time period and volume of wastewater discharged;
- 4) Actions taken to correct or control the spill; and
- 5) A schedule of corrective measures to prevent further spill occurrences.

33.15. MONITORING.

A) Monitoring facilities.

- 1) When required by the City, a user shall install a suitable control structure, together with such necessary meters and other appurtenances at or near the service connection, to facilitate observation sampling, flow measurement, and measurement of the wastes. Such structure and equipment, when required, shall be constructed at the user's expense in accordance with plans approved by the City and shall be maintained by the user so as to be safe and accessible at all times.

- 2) The monitoring facility should normally 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 elsewhere.

B) Flow measurement.

- 1) A user, when required by the City, shall install and maintain a flow measurement device for instantaneous rate and/or cumulative flow volume determinations. Metered water supply may be used in lieu of flow measurement devices if it can be documented that the water usage and waste discharge are the same, or where a measurable adjustment to the metered supply can be made to determine the waste volume.
- 2) Meters and flow records shall be maintained at the user's expense in good operating condition at all times. The user shall notify the City in writing within five days in the event that the user becomes aware that the meter or flow recorder has failed to accurately register the flow. The user shall also notify the City of the user's intention to alter the installation of a meter or flow recorder so as to affect the accurate recording of industrial waste entering the facilities.

C) City's self-monitoring analyses. All measurements, tests, and analyses of the characteristics of water and wastes shall be determined in accordance with EPA guidelines established in 40 CFR Part 136 and 40 CFR 403.12 (g) of the General Pretreatment Regulations. Representative samples of the City's waste shall be collected on a normal operating day.

D) Self-monitoring reports. The City shall complete and submit accurate routine self-monitoring reports.

E) Inspection and sampling.

- 1) The City may conduct such tests as are necessary to enforce this chapter, and employees of the City may enter upon any property for the purpose of taking samples, obtaining information or conducting surveys or investigations relating to such enforcement. Entry shall be made during operating hours unless circumstances require otherwise. In all cases where tests are conducted by the City for the purpose of determining whether the user is in compliance with regulations, the cost of such tests shall be charged to the user and added to the user's user fee. In those cases where the City determines that the nature or volume of a particular user's wastewater requires more frequent than normal testing, the City may charge such user for the tests, after giving the user ten days written notice of its intention to do so, and the cost thereof shall be added to the user's user fee. Duly authorized employees of the City, MPCA, and EPA bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. Those employees shall have no authority to inquire into any processes except as is necessary to determine the kind and source of the discharge to the facilities.

- 2) While performing the necessary work on private properties referred to in this section, the authorized employees of the City shall observe all safety rules applicable to the premises established by the user.
- 3) Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds an easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the facilities lying within said easement. All entry and subsequent work, if any, on said easement shall be done in all accordance with the terms of the easement pertaining to the private property involved.

F) Testing procedures. Testing procedures for the analysis of pollutants shall conform to the guidelines established in the EPA Code of Regulations, Title 40, Part 136 and 40 CFR 403.12 (g) of the Federal Pretreatment Regulations.

G) Wastewater discharge records. Wastewater discharge records of the City shall be kept by the City for a period of not less than five years or as otherwise required by law.

33.16. CONFIDENTIAL INFORMATION.

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

B) When requested by the person furnishing a report, the portions of a report that 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 chapter, 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.

C) Information accepted by the City as confidential shall not be transmitted to any governmental agency or to the general public by the City until and unless a 10-day notification is given to the user.

33.17. REGULATION OF GARAGE FLOOR DRAINS

A) Purpose and Applicability.

- 1) This section is hereby established in order to safely discharge oil and/or flammable liquid wastes when such waste is discharged into building drainage systems (or other point of disposal) when floor drains or trench drains are provided.

- 2) This section shall apply to all new plumbing systems and parts of existing systems which will be altered, extended or repaired, contained in enclosed garages housing motor vehicles, repair garages, gasoline stations with grease racks, work or wash racks, auto washes, and all buildings where oil and/or flammable wastes are produced located in the City. Said systems will be inspected and tested by the City or its designated authority and such inspection and enforcement is subject to the applicable provisions of the Minnesota Plumbing Code.

B) Oil and Flammable Liquids Separator.

- 1) All enclosed garages housing motor vehicles, repair garages, gasoline stations with grease racks, work or wash racks, auto washes, and all buildings where oily and/or flammable liquid wastes are produced shall have a separator installed into which all oil, grease, and sand bearing and/or flammable wastes shall be discharged before emptying into the building drainage system or other point of disposal, when floor drains or trench drains are provided.
- 2) Each separator shall be of watertight construction and of not less than 35 cubic feet holding capacity, be provided with a water seal of not less than three inches on the inlet and not less than 18 inches on the outlet. The minimum depth below the invert of the discharge drain shall be three feet. The minimum size of the discharge drain shall be four inches. The separator may be constructed of monolithic poured reinforced concrete with a minimum floor and wall thickness of six inches, or of iron or steel of a minimum thickness of 3/16 inch, protected with an approved corrosion resistant coating on both the inside and outside.
- 3) The separator must be provided with a non-perforated iron or steel cover and ring of not less than 24 inches in diameter, and the air space in the top of the tank must have a three-inch vent pipe, constructed of approved metallic material, extending separately to a point at least 12 inches above the roof of the building. Drains and piping from motor vehicle areas must be a minimum of three inches in size. Drains discharging to an interceptor must not be trapped and must be constructed so as not to retain liquids. In motor vehicle wash facilities, a sand interceptor which meets the requirements of Minn. Rules 4715.1130, subpart 1 (Minnesota Plumbing Code), except that no water seal is permitted, may be installed to receive wastes before discharging into a flammable waste separator.
- 4) No cleanout, mechanical joint, or backwater valve shall be installed inside the separator which could provide a bypass of the trap seal. Only wastes that require separation shall discharge into the separator, except that a water supplied and trapped sink may be connected to the vent of the separator. Whenever the outlet branch drain serving a separator is more than 25 feet from a vented drain, such branch drain shall be provided with a two-inch vent pipe. A backwater valve shall be installed in the outlet branch drain whenever, based upon the judgment of the City or its designated official, backflow from the building drain could occur.

- 5) A separator must be installed to be readily accessible for service and maintenance, and must be maintained by periodic removal of accumulated liquids and solids from the separator.

C) Interceptors and Separators for Specific Installations.

- 1) Sand interceptors, commercial, establishments. Sand and similar interceptors for heavy solids shall be so designed and located as to be readily accessible for cleaning, and shall have a water seal of not less than six inches.
- 2) Laundries. Commercial laundries shall be equipped with an interceptor having a wire basket or similar device, removable for cleaning, that will prevent passage into the drainage system of solids one-half inch or larger in size, string, rags, buttons, or other material detrimental to the public sewage system.
- 3) Bottling establishments. Bottling plants shall discharge their process wastes into an interceptor which will provide for separation of broken glass or other solids before discharging liquid wastes into the drainage system.
- 4) Slaughter houses. Slaughtering and dressing room drains shall be equipped with separators or interceptors approved by the administrative authority, which shall prevent the discharge into the drainage system of feathers, entrails, or other material likely to clog the drainage system.

D) Venting of Interceptors and Separators.

- 1) Interceptors and separators shall be so designed that they will not become airbound if closed covers are used. Each interceptor or separator shall be properly vented.

E) Maintenance of Interceptors and Separators.

- 1) Interceptors and separators shall be maintained in efficient operating condition by periodic removal of accumulated grease, scum, oil, or other floating substances, and solids, deposited in the interceptor or separator.
- 2) Each interceptor and separator shall be so installed that it is readily accessible for removal of cover, servicing, and maintenance. If installed substantially below grade, a manhole with flush manhole cover should be provided.

F) Inspections.

- 1) Garage floor drains shall be permitted only when a periodic testing and inspection program conducted by qualified, accredited personnel will be provided by an agency acceptable to the Public Works Director or the City Engineer. Inspection intervals shall not exceed five years. The Public Works Director or the City Engineer may require more frequent testing if deemed necessary to assure protection of the potable water.

33.18. SUMP PUMPS

A) Purpose. Based on the type and condition of surface and subsurface soils existing in the City, the City Council finds it essential to the maintenance of health and safety, and to prevent infiltration of waters into the sanitary sewer system, the requirement that a sump pump system be installed in all new construction of residential, commercial, and industrial primary structures located within the City.

B) Required. A sump pump system must be installed in all new construction of residential, commercial and industrial primary structures located within the City unless the City determines that the installation of a sump pump system is not necessary to protect the health, safety and general welfare. There is a presumption that a sump pump system is necessary and exceptions to this requirement will not be granted unless the owner, occupant, or user of the property makes application to the City. In order to receive an exception the application materials must establish to the satisfaction of the City or its designated agent that a sump pump system is not necessary to protect health, safety and general welfare.

C) Construction Standards. All sump pump systems must be constructed in accordance with the written standards prescribed by the City.

D) Drain.

- 1) All premises on which sump pumps are installed or in use shall have permanently installed thereon a drain for the discharge of waste from the pump directly into the storm sewer system or into a natural waterway.
- 2) Whenever the drain is connected directly to the storm sewer, an air break shall be provided to the ground surface to allow the pump to discharge overland should the storm sewer become plugged or be hydraulically surcharged. The air break shall be inspected and approved by the Public Works Director or City Engineer.
- 3) All underground drain construction hereafter performed shall be inspected by a City representative before it is covered.

E) By-Pass.

- 1) If, in the opinion of the Public Works Director, it is either impossible or impractical to install a year-round frost-free sump pump drain on certain premises within the established written standards, the Public Works Director may direct the issuance of a written permit (by-pass permit) to install a by-pass for temporarily pumping into the sanitary sewage system during any time or times as the permanent drain is frozen or in danger of freezing.
- 2) The time of by-pass use (by-pass time) shall be fixed and determined by the Public Works Director and notice to permit holders of the beginning and ending of the time shall be given through mailed notice to each owner or occupant of premises upon which a written permit has been issued.

- 3) The construction and use of a by-pass shall at not time be considered a substitute for the construction and use of a permanent drain requirement in D above.
- F) It is unlawful for any customer of other person:
- 1) To fail or refuse to have permanently installed on the premises owned by him or her a sump pump drain constructed in accordance with the written standards prescribed by the City.
 - 2) To pump or direct the water into the sanitary sewage system except by-pass permit holders pumping during a by-pass time.
- G) It is unlawful for any plumber or other contractor to install a connection not permitted hereby.
- H) Discontinue.
- 1) In any case where access for inspection of premises by a representative of the City to verify compliance with this section is denied, the City may discontinue water service to the premises.
 - 2) In any case of failure or refusal to comply with any provision of this section the City may discontinue water service to the premises.

CHAPTER 34: STORMWATER MANAGEMENT

34.01.	PURPOSE.....	86
34.02.	DISTRICT.....	86
34.03.	PERMIT.....	86
34.04.	DEFINITIONS.....	87
34.05.	ABROGATION AND GREATER RESTRICTIONS.....	92
34.06.	STORMWATER DRAINAGE RULES AND REGULATIONS.....	93
34.07.	GENERAL POLICY.....	93
34.08.	STORMWATER POLLUTION PREVENTION AND GRADING PLAN.....	94
34.09.	INSPECTION OF MEASURES.....	94
34.10.	MINIMUM REQUIREMENTS.....	94
34.11.	PLAN CRITERIA.....	95
34.12.	CONTROL MEASURES AND RELATED INSPECTIONS.....	96
34.13.	POLLUTION CONTROLS.....	99
34.14.	WET DETENTION FACILITIES.....	100
34.15.	MINIMUM PROTECTION FOR NATURAL WETLANDS.....	100
34.16.	VEGETATIVE BUFFER; RIVERS, STREAMS AND WETLANDS.....	101
34.17.	ADDITIONAL REQUIREMENTS.....	102
34.18.	MODELS, METHODOLOGIES AND COMPUTATIONS.....	104
34.19.	REVIEW; PERMIT REQUIRED.....	104
34.20.	MODIFICATION OF PLAN.....	105
34.21.	NOTIFICATION OF FAILURE OF PLAN.....	105
34.22.	WAIVER.....	106
34.23.	RIGHT OF ENTRY AND INSPECTION.....	106

34.01. PURPOSE.

A) The purpose of this chapter is to control or eliminate stormwater pollution along with soil erosion and sedimentation within the City. It establishes standards and specifications for conservation practices and planning activities, which minimize stormwater pollution, soil erosion and sedimentation.

34.02. DISTRICT.

A) Authority. The City Council is authorized by Minnesota Statutes, Chapter 444 to establish by ordinance a Storm Sewer Tax Improvement District within which the council may acquire, construct, reconstruct, extend, maintain and otherwise improve storm sewer drainage systems and related facilities within the district and finance the cost of such improvements, including maintenance and the payment of principal and interest on obligations issued in making such improvements.

B) Establishment of District. There is hereby established a Storm Sewer Improvement Tax District encompassing the entire geographical area of the City of Montrose, Wright County, State of Minnesota.

34.03. PERMIT.

A) Except where a variance is granted, any person, firm, sole proprietorship, partnership, corporation, state agency or political subdivision proposing a land disturbance activity within

the City shall apply to the City for the approval of a stormwater pollution prevention plan (SWPPP.) No land shall be disturbed until the plan is approved by the City and conforms to the standards set forth herein.

34.04. DEFINITIONS.

A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- 1) **APPLICANT.** Any person or entity that applies for a building permit, subdivision approval or a permit to allow land disturbing activities. APPLICANT also means that person's agents, employees and others acting under the person's direction.
- 2) **BEST MANAGEMENT PRACTICES or BMPs.** Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing and minimizing degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions and other management practices published by state or designated area-wide planning agencies. Examples of BMPs can be found in the current versions of the State Pollution Control Agency's publications, "Minnesota Storm Water Manual," "Protecting Water Quality in Urban Areas," and "Stormwater and Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Stormwater and Snow-Melt Runoff on Wetlands," the United States Environmental Protection Agency's, "Developing Your Stormwater Pollution Prevention Plan: A Guide for Construction Sites"(as a reference for BMPs) and the State Department of Transportation's, "Drainage Design & Erosion Control Design Manual."
- 3) **BUFFER.** A protective vegetated zone located adjacent to a natural resource, such as a water of the state, that is subject to direct or indirect human alteration. The width of a BUFFER STRIP is the width along each bank of a stream. Therefore, a 30-foot wide stream with 100-foot buffer strips has a total width of 230 feet. Acceptable buffer vegetation includes preserving existing pre-development vegetation and/or planting locally distributed native state trees, shrubs and grassy vegetation. Alteration of the areas is strictly limited. BUFFER AREAS are designated with permanent signs and protected by easements or located in outlots. As a plant species selection guide of what species not to plant, the State Department of Natural Resources' Minn. Rules Ch. 6216, as they may be amended from time to time, contains a list of exotic prohibited, regulated, unlisted and unregulated plant species.
- 4) **DEVELOPER.** A person, firm, corporation, sole proprietorship, partnership, state agency or political subdivision thereof engaged in a land disturbance activity.
- 5) **DISCHARGE.** The conveyance, channeling, runoff or drainage of stormwater, including snowmelt, from a construction site.

- 6) **ENERGY DISSIPATION.** This refers to methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to aprons, riprap, splash pads and gabions that are designed to prevent erosion.
- 7) **EROSION.** Any process that wears away the surface of the land by the action of water, wind, ice or gravity. **EROSION** can be accelerated by the activities of people and nature.
- 8) **EROSION AND SEDIMENT PRACTICE SPECIFICATIONS OR PRACTICE.** The management procedures, techniques and methods to control soil erosion and sedimentation as officially adopted by either the City, county, state or local watershed group, whichever is more stringent.
- 9) **EROSION CONTROL.** Methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover and construction phasing.
- 10) **EXPOSED SOIL AREAS.** All areas of the construction site where the vegetation (trees, shrubs, brush and the like) has been removed. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site. It does not include stockpiles or surcharge areas of sand, gravel, concrete or bituminous.
- 11) **FILTER STRIPS.** A vegetated section of land designed to treat runoff as overland sheet flow. They may be designed in any natural vegetated form from a grassy meadow to a small forest. Their dense vegetated cover facilitates pollutant removal and infiltration.
- 12) **FINAL STABILIZATION.** All soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 75% of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures have been employed. Examples of vegetative cover practices can be found in the current version of the State Department of Transportation's publication, Supplemental Specifications to the (Year) Standard Specifications for Construction. Simply sowing grass seed is not considered **STABILIZATION**.
- 13) **HYDRIC SOILS.** Soils that are saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
- 14) **HYDROPHYTIC VEGETATION.** Macrophytic, large enough to be observed by the naked eye, plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
- 15) **INFILTRATION/FILTRATION BASIN.** A permanent man-made structure for the infiltration or filtration of runoff into the ground. No permanent standing pool of water is present. If only filtration is desired, an underdrain system is installed underneath the basin. If both filtration and infiltration is desired, the underdrain

system will be placed closer to the ground surface. If only infiltration is desired, no underdrain system is installed.

16) IMPERVIOUS SURFACE.

- a) A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to runoff the surface in greater quantities and at an increased rate of flow than existed prior to development.
- b) Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas and concrete, asphalt or gravel roads.

17) LAND DISTURBANCE ACTIVITY. Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the government's jurisdiction, including clearing and grubbing, grading, excavating, transporting and filling of land. Within the context of this rule, LAND DISTURBANCE ACTIVITY does not mean:

- a) Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs and maintenance work.
- b) Construction, installation and maintenance of electric, telephone and cable television, utility lines or individual service connection to these utilities, which result in creating under 5,000 square feet of exposed soil;
- c) Tilling, planting or harvesting of agricultural, horticultural or silvicultural crops;
- d) Installation of fence, sign, telephone and electric poles and other kinds of posts or poles which result in creating under 5,000 square feet of exposed soil and/or
- e) Emergency work to protect life, limb or property and emergency repairs unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the City's requirements as soon as possible.

18) ORDINARY HIGH WATER MARK.

- a) This is generally the boundary elevation where the vegetation changes from predominately aquatic to terrestrial. This elevation delineates the highest water level, which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. Water often reaches this elevation in spring. For rivers and

streams, the ORDINARY HIGH WATER MARK is usually the top of the bank. It is less well defined for lakes and wetlands.

- b) The definition in M.S. § 103G.005(14), as it may be amended from time to time, says that the ...ORDINARY HIGH WATER LEVEL means the boundary of water basins, watercourses, public waters and public waters wetlands, and:
 - i) The ORDINARY HIGH WATER LEVEL is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
 - ii) For watercourses, the ORDINARY HIGH WATER LEVEL is the elevation of the top of the bank of the channel; and
 - iii) For reservoirs and flowages, the ORDINARY HIGH WATER LEVEL is the operating elevation of the normal summer pool.
- c) The term ORDINARY HIGH WATER MARK is further defined in Minn. Rule Part 6120.2500(11), as it may be amended from time to time. ORDINARY HIGH WATER MARKS are determined by the State Department of Natural Resources' area hydrologist.

19) PAVED SURFACE. A constructed hard, smooth surface made of asphalt, concrete or other pavement material. Examples include, but are not limited to roads, sidewalks, driveways and parking lots.

20) PERMANENT COVER. Final stabilization. Examples include grass, gravel, asphalt and concrete.

21) RESIDENTIAL EQUIVALENT FACTOR (REF). The ratio of the average volume of run-off generated by one acre of typical single family residential land, during a standard two-year rainfall event.

22) RUNOFF COEFFICIENT. The average annual fraction of total precipitation that is not infiltrated into or otherwise retained by the soil, concrete, asphalt or other surface upon which it falls that will appear at the conveyance as runoff.

23) SEDIMENT. The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported or has been moved by water, air or ice, and has come to rest on the earth's surface either above or below water level.

24) SEDIMENTATION. The process or action of depositing sediment caused by erosion.

25) SEDIMENT CONTROL. The methods employed to prevent sediment from leaving the development site. Sediment control practices include silt fences,

sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection and temporary or permanent sedimentation basins.

- 26) **SOIL.** The unconsolidated mineral and organic material on the immediate surface of the earth. For the purposes hereof, stockpiles of sand, gravel, aggregate, concrete or bituminous materials are not considered **SOIL STOCKPILES**.
- 27) **STABILIZED.** The exposed ground surface after it has been covered by sod, erosion control blanket, riprap or other material that prevents erosion from occurring. Simply sowing grass seed is not considered **STABILIZATION**.
- 28) **STORMWATER.** Under Minn. Rule Part 7077.0105(41b), **STORMWATER** means precipitation runoff, stormwater runoff, snow melt runoff and any other surface runoff and drainage. According to Title 40 C.F.R. Part 122.26 [b][13], **STORMWATER** means stormwater runoff, snow melt runoff and surface and drainage. **STORMWATER** does not include construction site dewatering.
- 29) **STORMWATER POLLUTION PREVENTION PLAN.** A joint stormwater and erosion and sediment prevention plan that is a document containing the requirements of this Chapter, that when implemented will decrease soil erosion on a parcel of land and off-site non-point pollution.
- 30) **STRUCTURE.** Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots and paved storage areas.
- 31) **SUBDIVISION.**
 - a) Any tract of land divided into building lots for private, public, commercial, industrial and the like development.
 - b) Minn. Rule 6120.2500(17), as it may be amended from time to time, defines **SUBDIVISION** as land that is divided for the purpose of sale, rent or lease, including planned unit development.
- 32) **TEMPORARY PROTECTION.** Short-term methods employed to prevent erosion. Examples of such protection include; straw, mulch, erosion control blankets, wood chips and erosion netting.
- 33) **URBAN.** Of, relating to, characteristic of and constituting a City.
- 34) **VEGETATED OR GRASSED SWALES.**
 - a) A vegetated earthen channel that conveys stormwater, while treating the stormwater by biofiltration.
 - b) Swales remove pollutants by both filtration and infiltration.

- 35) **WATERS OF THE STATE.** As defined in M.S. § 115.01(22), as it may be amended from time to time, all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, 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. According to Minn. Rules Part 7050.0130(A), as they may be amended from time to time, disposal systems or treatment works operated under either a state pollution control agency permit or an agency certificate of compliance are not considered **WATERS OF THE STATE.** Under Minn. Rules Part 7050.0130(F), as they may be amended from time to time, constructed wetlands designed for wastewater treatment are not **WATERS OF THE STATE.** Also see the definition of wetlands.
- 36) **WET SEDIMENTATION FACILITY.** A permanent man-made structure for the storage of runoff that contains a permanent pool of water.
- 37) **WETLANDS.** As defined in Minn. Rules Part 7050.0130(F), as they may be amended from time to time those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. **WETLANDS** generally include swamps, marshes, bogs and similar areas. **CONSTRUCTED WETLANDS** designed for wastewater treatment are not waters of the state. **WETLANDS** must have the following attributes.
- a) A predominance of hydric soils;
 - b) Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and
 - c) Under normal circumstances, support a prevalence of the vegetation. Two quick references of what is an existing identified wetland are the national wetlands inventory maps distributed by the U.S. Department of the Interior's Fish and Wildlife Service and the State Department of Natural Resources' maps of protected waters and wetlands.

34.05. ABROGATION AND GREATER RESTRICTIONS.

A) It is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

B) All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

34.06. STORMWATER DRAINAGE RULES AND REGULATIONS.

A) The municipal stormwater drainage system shall be operated as a public utility pursuant to M.S. § 444.075, from which revenue shall be derived subject to the provisions of this section and Minnesota Statutes.

B) Stormwater drainage fees. Stormwater drainage fees for parcels of land shall be determined by multiplying the REF for a parcel's land use by the fee established by the City.

- 1) All parcels containing single family residential dwellings shall have an REF value of 1 multiplied by the parcel's acreage (in acres). All parcels containing single family residential dwellings shall have a minimum REF value of 1. (Example 1: A 2 acre lot with a single family dwelling would have an REF = 2; Example 2: A ½ acre lot with a single family dwelling would have an REF=1)
- 2) All duplexes and townhomes shall have an REF value of 1 per unit.
- 3) All mobile home parks, commercial and industrial parcels shall have an REF value of 3 multiplied by the parcel's acreage (in acres). All mobile home parks, commercial and industrial parcels shall have a minimum REF value of 3.
- 4) All parcels containing multifamily or condo residential dwellings shall have an REF value of 3 multiplied by the parcel's acreage (in acres). All parcels containing multifamily or condo residential dwellings shall have a minimum REF value of 3.

C) Fee exemptions. Public right-of-ways, public parks, City facilities, urban reserve and agricultural land are exempt from stormwater drainage fees.

D) Recalculation of fees. Property owners may request recalculation of the charge by written request to the City Council. Requests must be received within 60 days of the billing.

E) Violations. Any person violating any provision of this section shall, upon conviction, be punished by the penalties applicable to a misdemeanor as set forth by state statute and as later amended.

34.07. GENERAL POLICY.

A) Plan and Approval.

- 1) Every applicant for a building permit, subdivision approval or a permit to allow land disturbing activities must submit a stormwater pollution prevention plan to the City Engineer.
- 2) No building permit, subdivision approval or permit to allow land disturbing activities shall be issued until the City approves this plan.
- 3) At a minimum, these pollution abatement control practices must conform to those in the current version of the State Pollution Control Agency's publication,

Protecting Water Quality in Urban Areas and the Minnesota Pollution Control Agency's NPDES Construction Stormwater Permit..

B) Rates and Erosion.

- 1) For all sites, stormwater discharge rates must not increase over the pre-development two-year, ten-year and 100-year peak storm discharge rates, based on the last ten years of how that land was used. Calculations shall be based on criteria established in the City of Montrose Stormwater Management Plan.
- 2) Also, accelerated channel erosion must not occur as a result of the proposed activity.
- 3) For wetlands volume control is generally more important. The wetland must not be deprived of water nor flooded to the point where the functional class of wetland would be changed.
- 4) Volume control shall be accomplished by methods outlined in the City of Montrose Stormwater Management Plan or as otherwise approved by the City Engineer.
- 5) Low Impact Development (LID) practices shall be used whenever possible and deemed practical by the City Engineer. Further LID practices are outlined in the City of Montrose Stormwater Management Plan.

34.08. STORMWATER POLLUTION PREVENTION AND GRADING PLAN.

A) The stormwater pollution prevention plan's measures, the limit of disturbed surface and the location of buffer areas shall be marked on the approved grading plan and identified with flags, stakes, signs and the like on the development site before work begins.

34.09. INSPECTION OF MEASURES.

A) At a minimum, inspections shall be done weekly and after every storm event that is large enough to result in runoff from the site by the NPDES applicant or designated representative. The City may also complete inspections but such inspections shall not take the place of the applicant's required inspections.

34.10. MINIMUM REQUIREMENTS.

A) The following shall be minimum requirements.

- 1) The name and address of the applicant and the location of the activity;
- 2) Project description; the nature and purpose of the land disturbing activity and the amount of grading, utilities and building construction involved;
- 3) Phasing of construction; time frames and schedules for the project's various aspects;

- 4) A map of the existing site conditions; existing topography, property information, steep slopes, existing drainage systems/patterns, type of soils, waterways, wetlands, vegetative cover, 100-year flood plain boundaries, locations of existing and future buffer strips and labeling the portions of the site that are within trout stream or outstanding resource value water watersheds;
- 5) A site construction plan that includes the location of the proposed land disturbing activities, stockpile locations, erosion and sediment control plan, construction schedule and the plan for the maintenance and inspections of the stormwater pollution prevention measures;
- 6) Adjacent areas; neighboring streams, lakes, residential areas, roads and the like, which might be affected by the land disturbing activity;
- 7) Designate the site's areas that have the potential for serious erosion problems;
- 8) Erosion and sediment control measures; the methods that will be used to control erosion and sedimentation on the site, both during and after the construction process;
- 9) Permanent stabilization; how the site will be stabilized after construction is completed, including specifications, time frames or schedules; and
- 10) Calculations that were made for the design of such items as sediment basins, wet detention basins, diversions, waterways, infiltration zones and other applicable practices.

34.11. PLAN CRITERIA.

- A) The plan shall address the following.
 - 1) Stabilizing all exposed soils and soil stockpiles and the related time frame or schedule;
 - 2) Establishing permanent vegetation and the related time frame or schedule;
 - 3) Preventing sediment damage to adjacent properties and other designated areas such as streams, wetlands, lakes and unique vegetation (e.g., oak groves, rare and endangered species habitats);
 - 4) Scheduling for erosion and sediment control practices;
 - 5) Where permanent and temporary sedimentation basins will be located;
 - 6) Engineering the construction and stabilization of steep slopes;
 - 7) Measures for controlling the quality and quantity of stormwater leaving a site;
 - 8) Stabilizing all waterways and outlets;
 - 9) Protecting storm sewers from the entrance of sediment;

- 10) What precautions will be taken to contain sediment when working in or crossing water bodies;
- 11) Re-stabilizing utility construction areas as soon as possible;
- 12) Protecting paved roads from sediment and mud brought in from access routes;
- 13) Disposing of temporary erosion and sediment control measures;
- 14) How the temporary and permanent erosion and sediment control practices will be maintained; and
- 15) How collected sediment and floating debris will be disposed of.

34.12. CONTROL MEASURES AND RELATED INSPECTIONS.

A) These minimum control measures are required where bare soil is exposed. Due to the diversity of individual construction sites, each site will be individually evaluated. Where additional control measures are needed, they will be specified at the discretion of the City Engineer. The City will determine what action is necessary to prevent excessive erosion from occurring on the site.

B) All grading plans and building site surveys must be reviewed by the City for effectiveness of erosion control measures in the context of the site topography and drainage.

C) Sediment Control.

- 1) Sediment control measures must be properly installed by the builder before construction activity begins. The structures may be adjusted during dry weather to accommodate short-term activities, such as those that require the passage of very large vehicles.
- 2) As soon as this activity is finished or before rainfall, the erosion and sediment control structures must be returned to the configuration specified by the City.
- 3) A sediment control inspection must then be scheduled, and passed before a footing inspection will be done.

D) Diversion of channeled runoff around disturbed areas, if practical, or the protection of the channel.

E) If a stormwater management plan involves directing some or all of the site's runoff, the applicant or his or her designated representative shall obtain from adjacent property owners any necessary easements or other property interests concerning the flowing of the water.

F) The scheduling of the site's activities to lessen their impact on erosion and sediment creation, so as to minimize the amount of exposed soil.

G) Control runoff by one of the following:

- 1) Unless precluded by moderate or heavy snow cover, mulching can take place if a light snow cover is present, stabilize all exposed inactive disturbed soil areas within 100 feet of any water of the state or within 100 feet any conveyance, curb, gutter, storm sewer inlet, drainage ditch and the like, to a water of the state with sod, seed or weed free mulch. This must be done, if the developer will not work the area for seven days.
- 2) For disturbed areas greater than one acre, prepare a stormwater pollution prevention plan. If more than one acre of new impervious surface is being added, permanent stormwater management such as an on-site sedimentation basin, an infiltration/filtration basin, or a regional sedimentation basin is required. Sedimentation basins must be constructed in accordance with accepted design specifications including access for operations and maintenance. The “Minnesota Stormwater Manual” provides guidance on proper design of stormwater management practices. Basin discharge rates must also be controlled to prevent erosion in the discharge channel. The applicant is required to obtain a NPDES/SDS construction stormwater permit from the State Pollution Control Agency for any project that disturbs one acre or more of land.
- 3) For disturbed areas less than one acre with less than one acre of new impervious surface, sedimentation basins are encouraged, but not required, unless specifically required by the City Engineer. The applicant shall install erosion and sediment controls at locations directed by the City. Minimum requirements include silt fences, rock construction entrances, inlet protection, rock check dams, erosion control blanket, or other equivalent control measures along slopes. Silt fences are required along channel edges to reduce sediment reaching channel. Silt fences, rock check dams and the like must be regularly inspected and maintained.

H) Runoff into State Waters

- 1) Sediment basins related to impervious surface area. Where a project's ultimate development replaces surface vegetation with one or more acres of new cumulative impervious surface, and all runoff has not been accounted for in a local unit of government's existing stormwater management plan or practice, the runoff must be discharged to a wet sedimentation basin or infiltration/filtration basin prior to entering waters of the state.
- 2) At a minimum the work must conform with the current version of the State Pollution Control Agency's publication, “Minnesota Stormwater Manual” and “Protecting Water Quality in Urban Areas,” and the current requirements found in the same agency's NPDES/SDS permits for stormwater associated with construction activities.

I) Generally, sufficient silt fence will be required to hold all sheet flow runoff generated at an individual site, until it can either infiltrate or seep through silt fence's pores.

J) Temporary stockpiling of 50 or more cubic yards of excess soil on any lot or other vacant area will not be allowed without issuance of a grading permit for the earth moving activity in question.

K) Soil Stockpiles.

- 1) For soil stockpiles greater than ten cubic yards the toe of the pile must be more than 25 feet from a road, drainage channel or stormwater inlet. If stockpiles will be left for more than seven days, they must be stabilized with mulch, vegetation, tarps or other means.
- 2) If left for less than seven days, erosion from stockpiles must be controlled with silt fences or rock check dams.
- 3) If for any reason a soil stockpile of any size is located closer than 25 feet from a road, drainage channel or stormwater inlet, and will be left for more than seven days, it must be covered with tarps or controlled in some other manner.

L) All sand, gravel or other mining operations taking place on the development site shall have a National Pollutant Discharge Elimination System general stormwater permit for industrial activities and all required State Department of Natural Resources permits.

M) Temporary rock construction entrances may be required wherever vehicles enter and exit a site.

N) Parking is prohibited on all bare lots and all temporary construction entrances, except where street parking is not available. Gravel entrances are to be used for deliveries only as per the development contract.

O) Streets must be cleaned and swept whenever tracking of sediments occurs and before sites are left idle for weekends and holidays. Establishment of a regular sweeping schedule is encouraged.

P) Water, impacted by the construction activity, removed from the site by pumping must be treated by temporary sedimentation basins, geotextile filters, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls. The water shall not be discharged in a manner that causes erosion or flooding of the site, receiving channels, adjacent property or a wetland.

Q) All storm drain inlets must be protected during construction until control measures are in place with inlet protection devices as required in the City of Montrose Development Standards and as approved by the City Engineer.

R) All newly constructed and reconstructed buildings must route roof drain leaders to pervious areas, not natural wetlands, where the runoff can infiltrate. The discharge rate shall be controlled so that no erosion occurs in the pervious areas.

S) Follow Up.

- 1) Follow-up inspections may be performed by the City on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In all cases, the inspectors will attempt to work with the developer and/or builder to maintain proper erosion and sediment control at all sites.
- 2) In cases where cooperation is withheld, construction stop orders may be issued by the City, until erosion and sediment control measures meet specifications. A second erosion and sediment control/grading inspection must then be scheduled and passed before the next building inspection will be completed.

T) Removal of more than one acre of topsoil shall not be done, unless written permission is given by the City Engineer. Excessive removal of topsoil can cause significant soil erosion problems.

U) All stormwater pollution prevention management facilities must be designed to minimize the need of maintenance, to provide easy vehicle and personnel access for maintenance purposes and be structurally sound. These facilities must have a plan of operation and maintenance that ensures continued effective removal of the pollutants carried in stormwater runoff. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management facilities for inspection and maintenance purpose.

34.13. POLLUTION CONTROLS.

A) The applicant shall either install, construct or pay the City fees for all stormwater management facilities necessary to manage increased runoff, so that the discharge rates from stormwater treatment basins do not exceed the pre-development two-year, ten-year and 100-year peak storm discharge rates. These pre-development rates shall be based on the last ten years of how that land was used. Accelerated channel erosion must not occur as a result of the proposed land disturbing or development activity. An applicant may also make an in-kind or a monetary contribution to the development and maintenance of community stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant. The City shall make the determination if the applicant shall construct the necessary facility or pay a fee to utilize regional facilities to meet these requirements.

B) All calculations and information used in determining these peak storm discharge rates shall be submitted along with the stormwater pollution prevention plan.

C) The applicant shall consider reducing the need for stormwater management facilities by incorporating the use of natural topography and land cover such as natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of treated (e.g., settled) water without compromising the integrity or quality of the wetland or pond. The sensitivity of a wetland to degradation varies with the type of vegetation. Sedge meadows, open bogs and swamps, coniferous bogs, calcareous fens, low prairies, lowland hardwood swamps and seasonally flooded basins are highly sensitive to

degradation. Flood plain forests, reed canary grass meadows, shallow (reed canary grass, cattail, giant reed or purple loosestrife) marshes are only slightly sensitive to degradation.

D) The following stormwater management practices must be investigated in developing the stormwater management part of the stormwater pollution prevention plan in the following descending order of preference:

- 1) Protect and preserve as much natural or vegetated area on the site as possible, minimizing impervious surfaces and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches;
- 2) Flow attenuation of treated stormwater by use of open vegetated swales and natural depressions;
- 3) Stormwater wet detention facilities, including percolation facilities; and
- 4) A combination of successive practices may be used to achieve the applicable minimum control requirements specified in division (A) above. The applicant shall provide justification for the method selected.

34.14. WET DETENTION FACILITIES.

A) At a minimum, these facilities must conform to the most current technology as reflected in the current version of the State Pollution Control Agency's publication, Protecting Water Quality in Urban Areas and the current requirements found in the same agency's NPDES permits for stormwater associated with construction activities. All facilities must also meet requirements in the City of Montrose Stormwater Management Plan.

B) Regional stormwater ponds are required whenever possible. Detention facilities and storm sewer facilities shall be designed to accommodate regional ponds as outlined in the City of Montrose Stormwater Management Plan.

34.15. MINIMUM PROTECTION FOR NATURAL WETLANDS.

A) Runoff must not be discharged directly into wetlands without appropriate quality (i.e. treated) and quantity runoff control, depending on the individual wetland's vegetation sensitivity. The sensitivity of a wetland to degradation varies with vegetation type. Sedge meadows, open bogs and swamps, coniferous bogs, calcareous fens, low prairies, lowland hardwood swamps, and seasonally flooded basins are highly sensitive to degradation, while flood plain forests, reed canary grass meadows, shallow (reed canary grass, cattail, giant reed or purple loosestrife) marshes are only slightly sensitive to degradation.)

B) Wetlands must not be drained or filled, wholly or partially, unless replaced by either restoring or creating wetland areas of at least equal public value. Compensating for the impact by replacing or providing substitute wetland resources or environments with those of at least equal public value. Compensation, including the replacement ratio and quality of replacement should be consistent with the requirements outlined in the rules adopted by the Board of Water and Soil Resources to implement the Wetland Conservation Act of 1991 including any and all amendments to it.

C) Work in and around wetlands must be guided by the following principles in descending order of priority:

- 1) Avoid both the direct and indirect impact of the activity that may destroy or diminish the wetland;
- 2) Minimize the impact by limiting the degree or magnitude of the wetland related activity and its implementation;
- 3) Rectify the impact by repairing, rehabilitating or restoring the affected wetland environment with one of at least equal public value; and
- 4) Reduce or eliminate the adverse impact over time by preservation and maintenance operations during the life of the activity.

34.16. VEGETATIVE BUFFER; RIVERS, STREAMS AND WETLANDS.

A) At the minimum a 30 foot wide protective buffer strip of, if possible pre-development vegetation shall be left along each bank, providing a tree canopy in the buffer zone closest to the channel. When new buffer vegetation is planted, native vegetation is preferred, since some non-native plant species can out-compete native species and create an undesirable mono-culture of decreased environmental value. Useful references are the State Pollution Control Agency's publications "Minnesota Stormwater Manual."

- 1) Detailed buffer design is usually site specific. Therefore the City Engineer can require a larger buffer than the minimum.
- 2) Design Criteria.
 - a) For newly constructed buffer sites the design criteria should follow common principles and the example of nearby natural areas. The site should be examined for existing buffer zones and mimic the slope structure and vegetation as much as possible. Buffer design and protection during construction should do any or all of the following: slow water runoff, trap sediment, enhance water infiltration, trap fertilizers, pesticides, pathogens, heavy metals, trap blowing snow and soil, and act as corridors for wildlife.
 - b) How much stress is put on these functions will determine the buffer zone's final configuration. Native state plant species have root systems and growth characteristics that are well suited to buffer functions, root systems and growth characteristics. By way of comparison, deep-rooted native grasses have a root system that is about ten times greater than soy beans or corn. Useful guides for starting the species selection includes the State Department of Transportation's seeding manual, and their Plant Selection Matrix CD ROM.
 - c) Good plant species design stresses diversity and allows plant succession and zoning of species from wet soil preference to drier upland species.

Useful guides for starting the plant selection include State Department of Transportation's seeding manual and their Plant Selection Matrix CD ROM.

- d) The State Department of Natural Resources requires permits when vegetation is introduced downgrade of a water's ordinary high water mark. The State Department of Natural Resources' area hydrologist defines the ordinary high water mark. Planting permits are obtained from the State Department of Natural Resources Regional Fisheries Office.
- 3) The applicant and/or developer shall maintain the buffer strip for the first year or until the buffer strip is well established whichever comes later. After that the City, or a party designated by the City, shall maintain the buffer strip. Even after a buffer strip is established it will require periodic inspection and possibly maintenance to ensure that it is functioning properly. Otherwise siltation and channeling may short-circuit the strip's function.
- 4) Drain tiles will short-circuit the benefits of vegetated buffer strips. Therefore, drain tiles on the development site should be identified and rendered inoperable.
- 5) Buffer strips shall be contained within an outlot owned by the City of Montrose.
- 6) Buffer strips shall be marked as such with permanent signs.

B) Water courses used solely for drainage, such as roadside ditches, are exempt from this provision.

34.17. ADDITIONAL REQUIREMENTS.

A) Trout Streams.

- 1) For discharges directly to or to tributaries directly to State Department of Natural Resources designated trout streams and State Pollution Control Agency designated outstanding resource value waters there shall be no increase in either the volume or rate of discharge from any design storm with a statistical recurrence interval of less than ten years (i.e., for the two-year, five-year and the like storm events), unless diversion is not practical and/or the soil is not suitable for stormwater infiltration techniques. This pertains to discharges directly to or upstream of the waters.
- 2) The intent is to encourage either stormwater infiltration or diversion, since urban trout streams are a unique resource and therefore deserve special consideration.
- 3) Residential development increases the total volume of runoff resulting from a given storm. Since there is a larger volume of water to deal with, limiting the rate of storm runoff to pre-development rates means that high flows (and therefore scouring velocities) will persist for longer periods of time than during pre-development conditions. This increases channel erosion.

- 4) Infiltration or diversion deals with this increased scouring problem by lessening the volume of runoff and therefore the duration of the scouring velocities. In the case of trout streams, increasing the inputs of warm stormwater increases the impact of thermal shocks. Since trout are temperature sensitive, increasing thermal shocks adversely impacts trout habitat.
 - a) The phrase, tributaries directly to, refers to tributaries within at least one State Department of Natural Resources Division of Waters minor watershed of the designated water. At its discretion the City may extend this area of protection.
 - b) The phrase, soil not suitable for stormwater infiltration techniques, means soils with permeability values less than Group C soils (less than two and one-half inches per hour), as defined by the U.S. Department of Agriculture's Natural Resources Conservation Service, and a seasonally high groundwater table is not present within 3 feet of the bottom of the infiltration facility. Infiltration basins should not be placed within a wellhead protection area or within 50 feet of a well.
- B) During construction temporary sedimentation basins are required for disturbed areas over one acre.
- C) Stormwater treatment devices that remove oil and floatable material (e.g., basin outlets with submerged entrances) must be part of BMP systems.
- D) Lightly used vehicle traffic areas such as overflow parking lots should use pervious surfaces where feasible.
- E) If the proposed project site includes a tributary that currently experiences erosion and/or sedimentation problems, the applicant shall work with the City to include channel modifications in the project that will also address the existing erosion and/or sedimentation problem.
- F) Permanent buildings erected on sites that border directly on and all tributaries to a State Department of Natural Resources designated trout stream and/or a State Pollution Control Agency designated outstanding resource value water must not be occupied until the permanent vegetative cover has been established. The cover must meet this permit's definition of final stabilization.
- G) Reduce Impervious Surface.
 - 1) The applicant shall consider methods for reducing the amount of impervious surface on the site. A useful publication is Better Site Design: A Handbook for Changing Development Rules in Your Community available from the Center for Watershed Protection in Ellicott City, Maryland.

2) Suggestions include:

- a) Disking in compost or in some other manner increasing the porosity of the soil that will become covered by lawn. (The movement of heavy vehicles associated with construction activities compacts the soil, and thus decreases its ability to absorb water. This is true even for some types of sandy soils. The common grasses chosen for lawns do not have a deep enough root system to overcome construction vehicle related soil compaction problems.)
- b) Reduced road widths;
- c) Reducing sidewalk widths;
- d) Allowing and providing for shared parking;
- e) Installing semi-permeable/ permeable or porous paving;
- f) Vegetated swales instead of curb and gutter;
- g) Filter strips; and
- h) Green vegetated roofs.

34.18. MODELS, METHODOLOGIES AND COMPUTATIONS.

A) Hydrological models and design methodologies used for the determining runoff characteristics and analyzing stormwater management structures must be approved by the City Engineer.

B) Plans, specifications and computations for stormwater management facilities submitted for review must be sealed and signed by a registered professional engineer.

C) All computations must appear in the plans submitted for review, unless otherwise approved by the City Engineer.

34.19. REVIEW; PERMIT REQUIRED.

A) Review. The City Engineer shall review the stormwater pollution prevention plan.

B) If the City determines that the stormwater pollution prevention plan meets the requirements of this chapter, the City shall issue a permit valid for a specified period of time that authorizes the land disturbance activity contingent on the implementation and completion of this plan.

C) If the City determines that the stormwater pollution prevention plan does not meet the requirements of this chapter, the City shall not issue a permit for the land disturbance activity.

D) All land use and building permits for the site in question must be suspended until the developer has an approved stormwater pollution prevention plan.

E) Fee. A permit shall not be issued until the stormwater plan fee as set by the City Council has been paid.

34.20. MODIFICATION OF PLAN.

A) An approved stormwater pollution prevention plan may be modified on submission of a written application for modification to the City, and after written approval by the City Engineer. In reviewing an application, the City Engineer may require additional reports and data.

34.21. NOTIFICATION OF FAILURE OF PLAN.

A) The City shall notify the developer, when the City is going to act on the financial securities part of this chapter.

B) The initial contact will be to a party or parties listed on the application and/or the stormwater pollution prevention plan. Forty-eight hours after notification by the City or 72 hours after the failure of erosion control measures, whichever is less the City, at its discretion, may begin corrective work. The notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical.

C) If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner and implement the cleanup and restoration plan within 48 hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City, shall more than seven calendar days go by without corrective action being taken. If in the discretion of the City, the applicant does not repair the damage caused by the erosion, the City may do the remedial work required and charge the cost to the applicant.

D) Cleanup.

- 1) If eroded soils, including tracked soils from construction activities, enter or appear likely to enter streets, wetlands or other water bodies, prevention strategies, cleanup and repair must be immediate.
- 2) The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

E) When an applicant fails to conform to any provision of this policy within the time stipulated, the City may take the following actions:

- 1) Withhold the scheduling of inspections and/or the issuance of a certificate of occupancy;
- 2) Revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction;
- 3) Direct the correction of the deficiency by City forces or by a separate contract: (The issuance of a permit constitutes a right-of-entry for the City or its contractor

to enter upon the construction site for the purpose of correcting deficiencies in erosion control.)

- 4) All costs incurred by the City in correcting stormwater pollution control deficiencies must be reimbursed by the applicant.
- 5) If there is an insufficient financial amount, in the applicant's financial securities as described herein, to cover the costs incurred by the City, then the City may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the City, concur that the benefit to the property exceeds the amount of the assessment, and waive all rights by virtue of M.S. § 429.081, as it may be amended from time to time, to challenge the amount or validity of assessment.

34.22. WAIVER.

A) In any case where, upon application of the responsible person or persons, the City finds that, by reason of exceptional circumstances, strict conformity with this chapter would be unreasonable, impractical or not feasible under the circumstances, the City in its discretion may grant a waiver therefrom upon the conditions as it may prescribe for prevention, control or abatement of pollution in harmony with the general purposes of this chapter.

B) The waiver request must be in writing.

C) The waiver response must be in writing, and include the justification for either granting or denying the requested variance.

D) The waiver shall become void one year after being granted, unless used.

E) If any of the waiver's conditions are violated, the City may revoke the waiver.

34.23. RIGHT OF ENTRY AND INSPECTION.

A) The applicant shall allow the City and their authorized representatives, upon presentation of credentials, to:

- 1) Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, surveys or investigations;
- 2) Bring such equipment upon the permitted development as is necessary to conduct the surveys and investigations;
- 3) Examine and copy any books, papers, records or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site;
- 4) Inspect the stormwater pollution prevention measures required by the City; and
- 5) Sample and monitor any items or activities pertaining to permits issued by the City.

CHAPTER 35: PHOSPHOROUS FERTILIZER

35.01.	AUTHORITY	107
35.02.	DEFINITIONS.	107
35.03.	PHOSPHOROUS USE RESTRICTIONS.	107
35.04.	IMPERVIOUS SURFACES.....	108

35.01. AUTHORITY.

A) Based on the authority granted to local units of government in M.S. § 18C.60, Subd. 2(b), as it may be amended from time to time, the City elects to adopt the restrictions on the use of phosphorous fertilizer on turf as set forth in M.S. § 18C.60, Subd. 2(a), as it may be amended from time to time.

35.02. DEFINITIONS.

A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- 1) **FERTILIZER.** A substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value for promoting plant growth. FERTILIZER does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products exempted by rule by the Minnesota Commissioner of Agriculture.
- 2) **IMPERVIOUS SURFACE.** A highway, street, sidewalk, parking lot, driveway or other material that prevents infiltration of water into the soil.
- 3) **MANIPULATED.** Fertilizers that are manufactured, blended or mixed, or animal or vegetable manures that have been treated in any manner, including mechanical drying, grinding, pelleting, and any other means, or by adding other chemicals or substances.
- 4) **TURF.** Noncrop land planted in closely mowed, managed grasses including, but not limited to, residential and commercial residential property, private golf courses, and property owned by federal, state, or local unit of government, including parks, recreation areas, and public golf courses. Turf does not mean pasture, hayland, hay, turf grown on turf farms, or any other form of agricultural production.

35.03. PHOSPHOROUS USE RESTRICTIONS.

A) A person may not apply a fertilizer containing the plant nutrient phosphorous to turf located within the City limits unless:

- 1) A tissue, soil, or other test by a laboratory or method approved by the Minnesota Commissioner of the Agriculture and performed within the last three years

indicates that the levels of available phosphorous in the soil are insufficient to support healthy turf growth; or

- 2) The property owner or agent of the property owner is first establishing turf via seed or sod procedures, and only during the first growing season.
- B) The application of fertilizer authorized under this Section, must not exceed rates recommended by the University of Minnesota and approved by the Minnesota Commissioner of Agriculture.

35.04. IMPERVIOUS SURFACES.

A) A person may not apply a fertilizer to an impervious surface. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container.

CHAPTER 36: RIGHT-OF-WAY MANAGEMENT

36.01.	FINDINGS, PURPOSE, AND INTENT.	109
36.02.	ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY.....	110
36.03.	ADOPTION OF RULES BY REFERENCE.	110
36.04.	DEFINITIONS.	110
36.05.	ADMINISTRATION.....	114
36.06.	REGISTRATION AND RIGHT-OF- WAY OCCUPANCY.	114
36.07.	REGISTRATION INFORMATION.	114
36.08.	PERMIT REQUIREMENT.	116
36.09.	PERMIT APPLICATIONS.	116
36.10.	ISSUANCE OF PERMIT; CONDITIONS.....	117
36.11.	PERMIT FEES.	117
36.12.	RIGHT-OF-WAY PATCHING AND RESTORATION.....	117
36.13.	JOINT TRENCH APPLICATIONS.	118
36.14.	SUPPLEMENTARY APPLICATIONS.	118
36.15.	OTHER OBLIGATIONS.	119
36.16.	DENIAL OF PERMIT.....	119
36.17.	INSTALLATION REQUIREMENTS.....	119
36.18.	INSPECTION.	120
36.19.	WORK DONE WITHOUT A PERMIT.	120
36.20.	SUPPLEMENTARY NOTIFICATION.	121
36.21.	REVOCATION OF PERMITS.....	121
36.22.	MAPPING DATA.	122
36.23.	LOCATION AND RELOCATION OF FACILITIES.....	123
36.24.	PRE-EXCAVATION FACILITIES LOCATION.....	123
36.25.	DAMAGE TO OTHER FACILITIES.....	123
36.26.	RIGHT-OF-WAY VACATION.....	124
36.27.	INDEMNIFICATION AND LIABILITY.....	124
36.28.	ABANDONED AND UNUSEABLE FACILITIES.....	124
36.29.	APPEAL.....	124

36.01. FINDINGS, PURPOSE, AND INTENT.

A) To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the City strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

B) This chapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this chapter, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

C) This chapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in M.S. §§ 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the “Act”) and the other laws governing applicable rights of the City and users of the right-of-way. This chapter shall also be interpreted consistent with Minn. Rules 7819.0050 to 7819.9930 where possible. To the extent any provision of this chapter cannot be interpreted

consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the City to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

36.02. ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY.

A) Pursuant to the authority, granted to the City under state and federal statutory, administrative and common law, the City hereby elects, pursuant to M.S. § 237.163, Subd. 2(b), to manage rights-of-way within its jurisdiction.

36.03. ADOPTION OF RULES BY REFERENCE.

Minn. Rules Ch. 7819, as it may be amended from time to time, is hereby adopted by reference and is incorporated into this code as if set out in full.

36.04. DEFINITIONS.

A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- 1) **ABANDONED FACILITY.** A facility no longer in service or physically disconnected from a portion of the operating facility or from any other facility, that is in use or still carries service.
- 2) **APPLICANT.** Any person requesting permission to excavate or obstruct a right-of-way.
- 3) **CITY.** The City of Montrose, Minnesota. CITY also means its elected officials, officers, employees and agents.
- 4) **COMMISSION.** The State Public Utilities Commission.
- 5) **CONGESTED RIGHT-OF-WAY.** A crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with M.S. § 216D.04, Subd. 3, over a continuous length in excess of 500 feet.
- 6) **CONSTRUCTION PERFORMANCE BOND.** Any of the following forms of security provided at permittee's option:
 - a) Individual project bond.
 - b) Cash deposit.
 - c) Letter of credit in a form acceptable to the City.
 - d) A blanket bond for projects within the City, or other form of construction bond, for a time specified and in a form acceptable to the City.

- 7) **DEGRADATION.** A decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.
- 8) **DEGRADATION COST.** Subject to Minn. Rules 7819.1100, means the cost to achieve a level of restoration, as determined by the City at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minn. Rules parts 7819.9900 to 7819.9950.
- 9) **DEGRADATION FEE.** The estimated fee established at the time of permitting by the City to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost. This fee is in addition to the permittee's obligation to fully restore the right-of-way.
- 10) **DEPARTMENT.** The Department of Public Works of the City.
- 11) **DEPARTMENT INSPECTOR.** Any person authorized by the City to carry out inspections related to the provisions of this chapter.
- 12) **DIRECTOR.** The Director of the Department of Public Works of the City, or his or her designee.
- 13) **DELAY PENALTY.** The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.
- 14) **EMERGENCY.** A condition that poses a danger to life or health or of a significant loss of property, or requires immediate repair or replacement of facilities in order to restore service to a customer.
- 15) **EQUIPMENT.** Any tangible asset used to install, repair or maintain facilities in any right-of- way.
- 16) **EXCAVATE.** To dig into, directionally bore, or in any way remove or physically disturb or penetrate any part of a right-of-way.
- 17) **FACILITY or FACILITIES.** Any tangible asset in the right-of-way required to provide utility service.
- 18) **FIVE-YEAR PROJECT PLAN.** Projects adopted by the City for construction within the next five years.
- 19) **HIGH DENSITY CORRIDOR.** A designated portion of the public-right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

- 20) **HOLE.** An excavation in the pavement with the excavation having a length less than the width of the pavement.
- 21) **LOCAL REPRESENTATIVE.** A local person or persons or designee of such person or persons authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.
- 22) **MANAGEMENT COSTS.** The actual costs the City incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and costs of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; M.S. §§ 237.162 or 237.163; or any ordinance enacted under those sections, or the City fees and costs related to appeals taken pursuant to this chapter.
- 23) **OBSTRUCT.** To place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.
- 24) **PATCH or PATCHING.** A method of pavement replacement that is temporary in nature. A patch consists of the compaction of the sub-base and aggregate base and the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions.
- 25) **PAVEMENT.** Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.
- 26) **PERMIT.** The meaning given “right-of-way permit” in M.S. § 237.162.
- 27) **PERMITTEE.** Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the City under this chapter.
- 28) **PERSON.** An individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate or political.
- 29) **PROBATION.** The status of a person that has not complied with the conditions of this chapter.
- 30) **PROBATIONARY PERIOD.** One year from the date that a person has been notified in writing that they have been put on probation.
- 31) **PUBLIC RIGHT-OF-WAY.** The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, or public sidewalk in which the City has an

interest, including other dedicated rights-of-way, for travel purposes and utility easements of the City. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service. Public right-of-way includes outlots or parks and drainage and utility easements that are dedicated to and/or owned by the City.

- 32) **REGISTRANT.** Any person who has or seeks to have its equipment or facilities located in any right-of-way, or in any way, occupies, uses, or seeks to occupy or use the right-of-way or place its facilities or equipment in the right-of-way.
- 33) **RESTORE or RESTORATION.** The process by which an excavated right-of-way and surrounding area, including pavement, foundation, sidewalk, turf and trail is returned to the same condition and life expectancy that existed before excavation.
- 34) **RESTORATION COST.** The amount of money paid to the City by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Commission rules.
- 35) **RIGHT-OF-WAY USER.** A telecommunications right-of-way user as defined by M.S. § 237.162, Subd. 4 or person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.
- 36) **SERVICE or UTILITY SERVICE.**
 - a) Those services provided by a public utility as defined in M.S. § 216B.02, Subd. 4 and 6.
 - b) Services of a telecommunications right-of-way user, including transporting of voice or data information.
 - c) Services of a cable communications systems as defined in M.S. Ch. 238.
 - d) Natural gas or electric energy or telecommunications services provided by the City.
 - e) Services provided by a cooperative electric association organized under M.S. Ch. 308A.
 - f) Water, and sewer, including service laterals, steam, cooling or heating services.
- 37) **SERVICE LATERAL.** An underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.
- 38) **SUPPLEMENTARY APPLICATION.** An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

- 39) TEMPORARY SURFACE. The compaction of sub-base and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation.
- 40) TRENCH. An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.
- 41) TELECOMMUNICATION RIGHT-OF-WAY USER. A person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under M.S. Ch. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in M.S. §216B.02, a municipality, a municipal gas or power agency organized under M.S. Ch. 453 and 453A, or a cooperative electric association organized under M.S. Ch. 308A, are not telecommunications right-of-way users for purposes of this chapter.

36.05. ADMINISTRATION.

A) The Director is the principal City official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The Director may delegate any or all of the duties hereunder.

36.06. REGISTRATION AND RIGHT-OF- WAY OCCUPANCY.

A) Registration. Each person who occupies or uses, or seeks to occupy or use the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, shall register with the City. Registration will consist of providing application information and paying a registration fee.

B) Registration prior to work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the City.

C) Exceptions. Nothing herein shall be construed to repeal or amend the City provisions concerning boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. However, nothing herein relieves a person from complying with the provisions of the M.S. Ch. 216D Gopher One-Call Law.

36.07. REGISTRATION INFORMATION.

A) Information required. The information provided to the City at the time of registration shall include, but not be limited to:

- 1) Each registrant's name, Gopher One-Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.
- 2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be

available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

- 3) A certificate of insurance.
 - a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state and acceptable to the City.
 - b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property.
 - c) Naming the City and its engineering consultants as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages.
 - d) Requiring that the City be notified 30 days in advance of cancellation of the policy or material modification of a coverage term.
 - e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage. The limits of the coverage shall not be less than \$1,000,000.
 - 4) The City will require a copy of the actual insurance policies.
 - 5) If the person is a corporation, a copy of the certificate is required to be filed under M.S. § 300.06 as recorded and certified to by the Secretary of State.
 - 6) The registrant shall submit a construction performance bond, cash deposit, letter of credit, or blanket bond in the amount of \$10,000 to the City. The security is to insure compliance with the approved plan.
 - 7) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person lawfully required to have such certificate from said commission or other state or federal agency.
- B) Notice of changes. The registrant shall keep all of the information listed above current at all times by providing to the City information as to changes within 15 days following the date on which the registrant has knowledge of any change.

36.08. PERMIT REQUIREMENT.

A) Permit required. Except as otherwise provided in this chapter, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the City to do so. A permit is required by a registrant to excavate or directionally bore that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

B) Permit extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new permit or permit extension is granted.

C) Delay penalty. In accordance with Minn. Rule 7819.1000, Subd. 3 and notwithstanding division (B), the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.

D) Permit display. Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the City.

36.09. PERMIT APPLICATIONS.

A) Application for a permit is made to the City. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

- 1) Registration with the City pursuant to this chapter.
- 2) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.
- 3) Payment of money due the City for:
 - a) Permit fees, estimated restoration costs, and other management costs.
 - b) Prior obstructions or excavations.
 - c) Any undisputed loss, damage, or expense suffered by the City because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the City.
 - d) Franchise fees or other charges, if applicable.
- 4) Payment of disputed amounts due the City by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing.

- 5) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the City deems the existing construction performance bond inadequate under applicable standards.

36.10. ISSUANCE OF PERMIT; CONDITIONS.

A) Permit issuance. If the applicant has satisfied the requirements of this chapter, the City shall issue a permit.

B) Conditions. The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

36.11. PERMIT FEES.

A) Permit fee. The City shall establish a permit fee in an amount sufficient to recover the following costs:

- 1) The City management costs.
- 2) Degradation costs, if applicable.
- 3) City labor and engineering costs.

B) Payment of permit fees. No permit shall be issued without full payment of the permit fees.

C) Non refundable. Permit fees that were paid for a permit that the City has revoked for are not refundable.

D) Application to franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

36.12. RIGHT-OF-WAY PATCHING AND RESTORATION.

A) Timing. The work to be done under the permit, and the patching and restoration of the right- of-way as required herein, shall be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee.

B) Patch and restoration. Permittee shall patch and restore its own work. The City may choose to restore the right-of-way itself if the work is not completed in accordance with the deadlines outlined in the permit.

- 1) City restoration. If the City restores the right-of-way, permittee shall pay the costs thereof within 30 days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the City, within 30 days of billing, all costs associated with correcting the defective work.

2) Permittee restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rule 7819.3000.

C) Standards. The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the City and shall comply with Minn. Rule 7819.1100.

D) Duty to correct defects. The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the City, shall correct all restoration work to the extent necessary, using the method required by the City. Said work shall be completed within five calendar days of the receipt of the notice from the City, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable.

E) Failure to restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all restoration required by the City, the City at its option may do such work. In that event the permittee shall pay to the City, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the City may exercise its rights under the construction performance bond.

36.13. JOINT TRENCH APPLICATIONS.

A) Joint application. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

B) Shared fees. Registrants who apply for permits for the same excavation, which the City does not perform, may share in the payment of the permit fee. In order to obtain a joint permit, registrants shall agree among themselves as to the portion each will pay and indicate the same on their applications.

C) With City projects. Registrants who join in a scheduled excavation performed by the City, whether or not it is a joint application by two or more registrants or a single application, are not required to the permit fee, but a permit would still be required.

36.14. SUPPLEMENTARY APPLICATIONS.

A) Limitation on area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated shall before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

B) Limitation on dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it shall apply for a new permit for the additional time it needs, and receive

the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application shall be submitted before the permit end date.

36.15. OTHER OBLIGATIONS.

A) Compliance with other laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the City or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to M.S. §§ 216D.01 through 216D.09 (Gopher One Call Excavation Notice System) and Minn. Rules Ch. 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

B) Prohibited work. Except in an emergency, and with the approval of the City, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

C) Interference with right-of-way. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area unless parked in conformance with City parking regulations. The loading or unloading of trucks shall be done solely within the defined permit area unless specifically authorized by the permit.

D) Trenchless excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to horizontal directional drilling, shall follow all requirements set forth in M.S. Ch. 16D and Minn. Rules Ch. 7560, and shall require potholing or open cutting over existing, underground utilities before excavating.

E) Compliance with erosion and sediment control requirements. A permittee must comply with all erosion and sediment control requirements found in this Code and in any other State, County or local law.

36.16. DENIAL OF PERMIT.

A) The City may deny a permit for failure to meet the requirements and conditions of this chapter or if work is not completed on a previous permit issued to the same applicant, or if the City determines that the denial is necessary to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

36.17. INSTALLATION REQUIREMENTS.

A) The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the M.S. §§ 237.162 and 237.163. Installation of service laterals shall be performed in accordance

with Minn. Rules Ch. 7560. Service lateral installation is further subject to those requirements and conditions set forth by the City in the applicable permits and all requirements and conditions set forth in this Code.

36.18. INSPECTION.

A) Notice of completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minn. Rule 7819.1300.

B) Site Inspection. Permittee shall make the work-site available to the City and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

C) Authority of Director.

- 1) At the time of inspection, the Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.
- 2) The Director may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Director that the violation has been corrected. If such proof has not been presented within the required time, the Director may revoke the permit.

36.19. WORK DONE WITHOUT A PERMIT.

A) Emergency situations. Each registrant shall immediately notify the Director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One-Call regarding an emergency situation does not fulfill this requirement. Within two business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency. If the City becomes aware of an emergency regarding a registrant's facilities, the City will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the City may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

B) Non-emergency situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way shall subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the City, deposit with the City the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this chapter.

36.20. SUPPLEMENTARY NOTIFICATION.

A) If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the City of the accurate information as soon as this information is known.

36.21. REVOCATION OF PERMITS.

A) Substantial breach. The City reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to the following:

- 1) The violation of any material provision of the right-of-way permit.
- 2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens.
- 3) Any material misrepresentation of fact in the application for a right-of-way permit.
- 4) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control.
- 5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued by the City.

B) Written notice of breach. If the City determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the City shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

C) Response to notice of breach. Within 24 hours of receiving notification of the breach, permittee shall provide the City with a plan, acceptable to the City, that will cure the breach. Permittee's failure to so contact the City, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the City, or permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one full year.

D) Cause for probation. From time to time, the City may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full

year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.

E) Automatic revocation. If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.

F) Reimbursement of City costs. If a permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

36.22. MAPPING DATA.

A) Information required. Each registrant and permittee shall provide mapping information required by the City in accordance with Minn. Rules 7819.4000 and 7819.4100. Within 90 days following completion of any work pursuant to a permit, the permittee shall provide the Director accurate maps and drawings certifying the "as-built" location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the City's electronic mapping system, when practical or as a condition imposed by the Director. Failure to provide maps and drawings pursuant to this division shall be grounds for revoking the permit holder's registration.

B) Service laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. Rules 7560.0150, Subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the Director reasonably requires it. Permittees or their subcontractors shall submit to the Director evidence satisfactory to the Director of the installed service lateral locations. Compliance with this division and with applicable Gopher State One Call law and Minn. Rules governing service laterals install after December 31, 2005 shall be a condition of any City approval necessary for payments to contractors working on a public improvement project including those under M.S. Ch. 429, and City approval of performance under development agreements, or other subdivision or site plan approval under M.S. Ch. 462. The Director shall reasonably determine the appropriate method of providing such information to the City. Failure to provide prompt and accurate information on the service lateral installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

C) Sewer service lateral information. All gas pipeline operators shall protect all sanitary sewer service laterals from damage and inadvertent puncture in accordance with the Minnesota Office of Pipeline Safety requirements. All information on existing sewer service laterals obtained by the gas pipeline operator or its contractors during this process shall be forwarded to the Public Works Director.

36.23. LOCATION AND RELOCATION OF FACILITIES.

A) Placement. Placement, location, and relocation of facilities shall comply with the Act, with other applicable law, and with Minn. Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

B) Corridors. The City may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the City expects will someday be located within the right-of-way. All excavation, or other permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the City shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the City for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

C) Nuisance. One year after the passage of this chapter, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

D) Limitation of space. To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the City shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the City shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest. The City may require joint trenching in the event there are multiple right-of-way applications or permits in a specific location.

36.24. PRE-EXCAVATION FACILITIES LOCATION.

A) In addition to complying with the requirements of M.S. §§ 216D.01 through 216D.09 (“One Call Excavation Notice System”) before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than 20 inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

36.25. DAMAGE TO OTHER FACILITIES.

A) When the City does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the City shall notify the local

representative as early as is reasonably possible. If the registrant does not maintain support or move the facilities at the City's request, and the City maintains, supports, or moves the facilities, the costs associated therewith will be billed to that registrant and shall be paid within 30 days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

36.26. RIGHT-OF-WAY VACATION.

A) If the City vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules 7819.3200.

36.27. INDEMNIFICATION AND LIABILITY.

A) By registering with the City, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the City in accordance with the provisions of Minn. Rule 7819.1250.

36.28. ABANDONED AND UNUSEABLE FACILITIES.

A) Discontinued operations. A registrant who has determined to discontinue all or a portion of its operations in the City shall provide information satisfactory to the City that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.

B) Removal. Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the City.

36.29. APPEAL.

A) A right-of-way user that has been denied registration, has been denied a permit, has had a permit revoked, believes that the fees imposed are not in conformity with M.S. § 237.163, Subd. 6, or has been accused of breaching the conditions or requirements of a permit or of this Code may have the denial, revocation, fee imposition, or decision reviewed, upon written request to by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.