

## TITLE V: PUBLIC WORKS

Chapter

- 50. GARBAGE
- 51. SEWERS
- 52. FRANCHISES

### CHAPTER 50: GARBAGE

Section

- 50.01 Garbage reduction and recycling promotion policy
- 50.02 City-owned canisters
- 50.03 Garbage collection and disposal

#### § 50.01 GARBAGE REDUCTION AND RECYCLING PROMOTION POLICY.

(A) The City of Nashwauk, in order to protect the environment, and reduce the volume of garbage collected within the City of Nashwauk, adopts this section with the stated public policy of reducing garbage and promoting recycling within the City of Nashwauk.

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

**CARDBOARD.** Shall have its usual definition, with the intention of this section to refer to the type of cardboard which is accepted for recycling.

**RETURNABLE BOTTLE.** A glass container which is ordinarily collected for refilling with beverage after use.

**THROW-AWAY GLASS CONTAINER.** Any glass beverage container of a type which is not ordinarily collected for refilling with beverage.

(C) Every individual licensed within the City of Nashwauk to sell intoxicating or 3.2% malt liquor on the premises shall be required to sell beer only from returnable bottles or aluminum cans, or other returnable container. All licensees shall be prohibited from selling throw-away beer bottles in the City of Nashwauk at on sale.

(D) All owners of businesses within the City of Nashwauk and the Nashwauk High School shall be required to bundle cardboard by flattening the same out and tying it as necessary for recycling.

(E) This section shall be effective upon its passage and publication, but shall not be effective prior to 6-1-1990.

(Ord. 176, passed 4-3-1990) Penalty, see § 10.99

#### § 50.02 CITY-OWNED CANISTERS.

(A) It shall be illegal for anyone from outside the City of Nashwauk to deposit garbage in city-owned canisters.

(B) The effective date of this section shall be upon its passage and publication. (Ord. 168, passed 4-5-1988) Penalty, see § 10.99

### **§ 50.03 GARBAGE COLLECTION AND DISPOSAL.**

(A) (1) Every family at their residence and every proprietor, manager, or superintendent of any hotel, restaurant, boarding or lodging house, store, candy kitchen, or other place of business of any character, and the owner, proprietor, lessee, or user of any stable, barn, or place where horses, cattle, or other animals or fowl are kept in the City of Nashwauk, shall provide and keep at the place of residence, or place of business, or stable, barn, or other place here designated the receptacles for garbage as herein provided, and deposit therein all the garbage accumulating in or about the premises in the manner hereinafter provided.

(2) All garbage shall be enclosed in plastic bags and placed in receptacles at a location provided by the city for pick-up. Metal garbage cans shall not be used after the effective date of this section.

(Am. Ord. 148, passed 8-18-1981)

(B) No garbage shall be burned or deposited upon any street, alley, or public grounds of the city, except the city dump.

(C) No garbage shall be burned upon any private property or premises except in an incinerator approved by the City Council of Nashwauk. Every person having the incinerator and desiring to use the same shall make application to the City Council for a permit therefore and the City Council may grant the permit.

(D) Any violation of this section shall result in a charge for misdemeanor.

(E) (1) Households within the City of Nashwauk shall be exempted from the charge for garbage collection, if the primary source of monthly income for the household is social security payments made to persons 62 years or older.

(2) The Clerk/Treasurer shall make and keep a list of exempt households and may, when it is deemed appropriate, require an annual application to be filed on a form which the Clerk/Treasurer shall provide. The application may be prepared by the occupant of a household or anyone on the applicant's behalf.

(3) The City Council shall review an application upon the request of the Clerk/Treasurer, or upon its own motion. When the City Council makes the review, it shall consider the following information in making a determination upon the application:

(a) Whether or not any occupant of the household receives income from employment;

(b) Whether or not the occupant of 1 or more units in a multi-unit dwelling, which would otherwise be considered an eligible household for exemption, is required to pay rent to another occupant of the same multi-unit dwelling;

(c) Interest income or dividends shall not be considered "monthly income"; and

(d) Mining company pensions as well as other pensions available to an occupant of a household will disqualify the household for exemption unless the aggregate of the

pensions is less than 10% of the total of the sum of the aggregate of the pensions and social security payments made to occupants of the household.

(F) This section, as amended, shall take effect upon its passage and publication. (Ord. 67, passed - -; Am. Ord. 127, passed 11-7-1974; Am. Ord. 128, passed 3-20-1975) Penalty, see § 10.99

## CHAPTER 51: SEWERS

---

### Section

#### *Sewer Use Regulations*

- 51.01 Definitions
- 51.02 Use of public sewers required
- 51.03 Private sewage disposal
- 51.04 Building sewers and connections
- 51.05 Use of the public sewers
- 51.06 Protection from damage
- 51.07 User rate schedule for charges
- 51.08 Power and authority of inspectors
- 51.09 Violations
- 51.10 Effective date

#### *Sewer Service Charge System*

- 51.25 Definitions
- 51.26 Establishment
- 51.27 Determination of sewer service charges
- 51.28 Sewer Service Fund
- 51.29 Administration
- 51.30 Violations
- 51.31 System precedence; effective date

#### ***Cross-reference:***

*Garbage, see Ch. 50*

*Health and Safety; Nuisances, see Ch. 93*

## SEWER USE REGULATIONS

### § 51.01 DEFINITIONS.

For the purpose of §§ 51.01 *et seq.*, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BIOCHEMICAL OXYGEN DEMAND OR BOD5.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at

20°C, expressed in milligrams per liter. It represents the breakdown of carbonaceous materials as distinct from nitrogenous materials.

**BUILDING DRAIN.** The 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 5 feet (1.5 meters) outside the inner face of the building wall.

**BUILDING SEWER.** The extension from the building drain to the public sewer or other place of disposal.

**COMBINED SEWER.** A sewer receiving both surface runoff and sewage.

**ENGINEER** The City Engineer or his or her authorized deputy, agent, or representative.

**GARBAGE.** Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

**INDUSTRIAL WASTES.** The liquid, gaseous, and solid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

**INFILTRATION.** Water entering the sewage system (including building drains and pipes) from the ground through means such as defective pipes, pipe joints, connections, and manhole walls.

**INFILTRATION/INFLOW (I/I).** The total quantity of water from both infiltration and inflow.

**INFLOW.** Water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and areas drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewer, catch basins, surface runoff, street wash waters, or drainage.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)**

**PERMIT.** A permit issued by the United States Environmental Protection Agency/Minnesota Pollution Control Agency setting limits on pollutant strength that a permittee may legally discharge into the waters of the U.S. pursuant to the Federal and State Water Pollution Control regulations.

**NATURAL OUTLET.** Any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

**NORMAL DOMESTIC STRENGTH WASTE.** Wastewater characterized by wastes created in the preparation of foods, bathing, laundry facilities, and water-carried human waste whose characteristics do not exceed 270 mg/l BOD and 320 mg/l TSS, and is identified for the purpose of determining surcharge rates.

**PERSON.** Any individual, firm, company, association, society, corporation, or group.

**pH.** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**PROPERLY SHREDDED GARBAGE.** The wastes from the preparation, cooking, and dispensing of food that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

**PUBLIC SEWER.** A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

**SANITARY SEWER.** A sewer which carries sewage and to which storm, surface, and ground waters are not admitted.

**SEWAGE.** A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with the incidental ground, storm, and surface waters as may be present.

**SEWAGE TREATMENT PLANT.** Any arrangement of devices and structures used for treating sewage.

**SEWAGE WORKS.** All facilities for collecting,  
[MISSING MATERIAL]

**SHALL.** Is mandatory; **MAY** is permissive.

**SLUG.** Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than 5 times the average 24-hour concentration of flows during normal operation

**STORM SEWER.** A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

**SUPERINTENDENT.** The Superintendent of Sewage Works and/or of Water Pollution Control of the City of Nashwauk or his or her authorized deputy, agent, or representative.

**TOTAL SUSPENDED SOLIDS (TSS).** Solids that either float on the surface of, or are suspended in water, sewage, or other liquids, and which are removable by laboratory filtering.

**WATERCOURSE.** A channel in which a flow of water occurs, either continuously or intermittently.

(Ord. 169, passed 8-9-1988)

## § 51.02 USE OF PUBLIC SEWERS REQUIRED.

(A) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet or watercourse within the city, or in any area within the jurisdiction of the city, any sewage or other polluted waters except where suitable treatment as defined by state and federal regulation and/or in accordance with the city's NPDES permit has been provided in accordance with the provisions of §§ 51.01 *et seq.*

(C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, holding tank, septic tank, cesspool, or other facility intended or used for the disposal of sewage within the corporate limits of the

[MISSING MATERIAL]

(D) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, and which by nature of its use generates sanitary sewage or other water-carried waste which is amenable to conventional treatment processes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect the facilities, either new or existing, directly to the proper public sewer in accordance with the provisions of §§ 51.01 *et seq.*, within 90 days after date of official notice by the City Council to do so, provided that the public sewer is within 100 feet (30.48 meters) of the owner's property line.

(E) In the event an owner shall fail to connect to a public sewer in compliance with a notice given under § 51.09(A), the city shall undertake to have the connection made and shall

assess the cost thereof against the benefitted property. The assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the Auditor of the County of Itasca, Minnesota, and shall be collected and remitted to the city in the same manner as assessments for local improvements. The rights of the city shall be in addition to any penalties or remedial or enforcement provisions of §§ 51.01 *et seq.* (Ord. 169, passed 8-9-1988) Penalty, see § 10.99

### **§ 51.03 PRIVATE SEWAGE DISPOSAL.**

(A) Where a public sanitary sewer is not available under the provisions of § 51.02(D), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(B) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the city. The application for the permit shall be made on a form furnished by the city, which the applicant shall supplement with any plans, specifications, and other information as are deemed necessary by the Engineer or County Board of Health Offices. A permit and inspection fee in an amount set by City Council from time to time shall be paid to the city at the time the application is filed.

(C) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the city and the County Board of Health Officer. They shall be allowed to inspect the work at any stage of construction and the applicant for the permit shall notify the city when the work is ready for final inspection before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of the notice.

(D) The type, capacities, locations, and layout of a private sewage disposal system shall comply with Minnesota Pollution Control Agency Rule Chapter 7080, as it may be amended from time to time. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank shall be permitted to discharge to any natural outlet.

(E) At the time as a public sewer becomes available to a property served by a private system, as provided in § 51.02(D), a direct connection shall be made to the public sewer within 90 days of notification by the City Council and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and removed or cleaned and filled with clean bank-run gravel.

(F) The owner shall operate and maintain the private sewage disposal facility in a sanitary manner at all times, at no expense to the city.

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by any officially recognized health office or the Minnesota Pollution Control Agency.

(Ord. 169, passed 8-9-1988) Penalty, see § 10.99

### **§ 51.04 BUILDING SEWERS AND CONNECTIONS.**

Nashwauk, MN Code of Ordinances

(A) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.

(B) (1) There shall be 2 classes of building sewer permits:

(a) For residential and commercial service; and

(b) For service to establishments producing industrial wastes.

(2) In either case, the owner or his or her agent shall make an application on a form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the city. A permit and inspection fee for a residential, commercial or industrial connection, in amounts set by City Council from time to time, shall be paid at the time the application is filed.

(C) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(D) A separate and independent building sewer shall be provided for every building; except where 1 building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as 1 building sewer. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any connection aforementioned. Additional sewer service availability, tap fee, and hold harmless clause is necessary for separate ownership.

(E) Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the City Inspector, to meet all the requirements of §§ 51.01 *et seq.*

(F) The size, slope, alignment, and materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, testing, and backfilling the trench shall all conform to the requirements of the Plumbing Code or other applicable rules and regulations of the city.

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

(H) No person shall make or have any connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater, either directly or indirectly, to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(I) The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the city. All the connections shall be made gastight and watertight and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from these prescribed procedures and materials must be approved by the city before installation.

(J) The applicant for the building sewer permit shall notify the City Plumbing Inspector when the building sewer is ready for final inspection and connection to the public sewer. The connection shall be made under the general supervision of the City Engineer or his or her representative, or the City Plumbing Inspector.



(K) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored to as good or better condition than before work commenced.

(L) Any new connections to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to, capacity for flow, BOD5, and suspended solids, as determined by the Superintendent.  
(Ord. 169, passed 8-9-1988) Penalty, see § 10.99

## **§ 51.05 USE OF THE PUBLIC SEWERS.**

(A) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(B) Storm water and all other unpolluted waters shall be discharged to the sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Engineer. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Engineer, to a storm sewer, or natural outlet, subject to approval and the issuance of a discharge permit by the Minnesota Pollution Control Agency.

(C) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

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

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases as defined by § 307(a) of the Clean Water Act, being 33 USC 1317(a) in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals in spite of treatment, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of federal and state requirements in the wastes as discharged to the public sewer;

(3) Any waters or wastes having a pH lower than 5.0 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel or the sewage works;

(4) Solid or viscous substances in quantities or of the size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, sanitary napkins, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fletching, entrails, and paper dishes, cups, milk containers, and the like

*[MISSING MATERIAL]*

(D) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Engineer and/or



Superintendent that the wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving waters, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Engineer and/or Superintendent will give consideration to the factors as the city's NPDES permit, the quantities of subject wastes in relation to the flows and velocities in the sewers, materials and construction of the sewers, nature of the treatment process, capacity of the treatment plant, degree of treatability of the wastes in the sewage treatment plant, and other factors deemed pertinent. The substances prohibited are:

(1) Any wastewater that would directly or indirectly result in a violation of the city's NPDES permit;

(2) Any liquid or vapor having a temperature higher than 150°F (65°C);

(3) Any water or waste containing fats, wax, grease, oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C to 65°C);

(4) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower or greater shall be subject to the review and approval of the Superintendent, or his or her authorized representative;

(5) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not;

(6) Any waters or wastes containing iron, chromium, copper, zinc, nickel, lead, cadmium, mercury, cyanide, PCBs, and similar toxic or objectionable substances to the degree that the material received in the composite sewage at the treatment works exceeds the limits established by the Minnesota Pollution Control Agency for the materials;

(7) Any waters or wastes containing phenols or other taste- or odor-producing substances, in the concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for the discharge to the receiving waters;

(8) Any radioactive wastes or isotopes of the half-life or concentration as may exceed limits established by the Superintendent, in compliance with applicable state and federal regulations;

(9) Materials which exert or cause:

(a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

(b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solution);

(c) Unusual BOD5, chemical oxygen demand, or disinfection requirements in the quantities as to constitute a significant load on the sewage treatment works, except by special permit or agreement; and/or

(d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the treatment process employed, or are amenable to treatment only to the degree that the treatment plant effluent cannot meet the requirements of the agencies having jurisdiction over discharge to the receiving waters.

(E) (1) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in divisions (C) and (D) above, and which in the judgement of the Superintendent and/or Engineer may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Engineer and/or Superintendent may:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable condition for discharge to public sewers;
- (c) Require control over the quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer service charges under the provisions of §§ 51.25 *et seq.*

(2) If the Engineer and/or Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to review and approval by the city and subject to the requirements of all applicable federal and state codes, ordinances, and pretreatment standards established pursuant to § 307(b) of the Clean Water Act, being 33 USC 1317(b) as it may be amended from time to time.

(F) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing constituents, as described in divisions (C) and (D) above, in prohibited amounts. All interceptors shall be of a design approved by the Engineer and shall be located as to be readily accessible for cleaning and inspection.

(G) Where preliminary treatment or flow equalization facilities are provided for any wastes or water, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(H) No user shall increase the use of process water or, in any manner, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in divisions (C) and (D) above, or contained in the National Categorical Pretreatment Standards or any state requirements.

(I) When required by the Engineer and/or Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole or manholes together with the necessary meters, samplers, and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. The manhole shall be easily accessible and safely located, and shall be constructed in accordance with plans approved by the Engineer. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe for use at all times.

(J) The owners of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the city, be required to provide laboratory measurements, tests, or analyses of waters or wastes to illustrate compliance with §§ 51.01 *et seq.* and any special condition for discharge established by the city or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated in writing by the city. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with federal, state, and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the city at the times and in the manner as prescribed by

the city. The owner shall bear the expense of all measurements, analyses, and reporting required by the city. At the times as deemed necessary, the city reserves the right to take its own measurements and samples for analysis by an independent laboratory.

(K) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in §§ 51.01 *et seq.* shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association. Sampling methods, location, times, duration, and frequencies are to be determined on an individual basis subject to approval by the Superintendent and Engineer.

(L) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject, to payment therefore by the industrial concern, providing that National Categorical Pretreatment Standards and the city's NPDES and/or State Disposal System permit limitations are not violated, and that payment for the operation, maintenance, and replacement costs of wastewater treatment is in proportion to the industry's contribution of wastewater loadings to the treatment facilities, in accordance with 40 C.F.R. pt. 35.2140, as it may be amended from time to time, and §§ 51.25 *et seq.*

(Ord. 169, passed 8-9-1988) Penalty, see § 10.99

#### **§ 51.06 PROTECTION FROM DAMAGE.**

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 sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Ord. 169, passed 8-9-1988) Penalty, see § 10.99

#### **§ 51.07 USER RATE SCHEDULE FOR CHARGES.**

Each user of sewer service shall pay the charge(s) applicable to the type of service, and in accordance with the provisions set forth in §§ 51.25 *et seq.*

(Ord. 169, passed 8-9-1988) Penalty, see § 10.99

#### **§ 51.08 POWER AND AUTHORITY OF INSPECTORS.**

(A) The Engineer and/or Superintendent and other duly authorized employees of the city 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 §§ 51.01 *et seq.* The Superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industrial processes considered the property of the industry beyond that point having a

direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(B) While performing the necessary work on private properties referred to in division (A) above, the Engineer, Superintendent, or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the owner and the owner shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the owner to maintain safe conditions as required in § 51.05(I).

(C) The Engineer and/or Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the property. All entry and subsequent work, if any, on the property shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. 169, passed 8-9-1988) Penalty, see § 10.99

#### **§ 51.09 VIOLATIONS.**

(A) Any person found to be violating any provisions of §§ 51.01 *et seq.*, except § 51.06, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(B) Any person who shall continue any violation beyond the time limit provided for in division (A) above, shall be guilty of a misdemeanor.

(C) Any person violating any of the provisions of §§ 51.01 *et seq.* shall become liable to the city for any expense, loss, or damage occasioned the city by reason of the violation.

(Ord. 169, passed 8-9-1988) Penalty, see § 10.99

#### **§ 51.10 EFFECTIVE DATE.**

Sections 51.01 *et seq.* shall be in full force and effect from and after its passage and publication as provided by law.

(Ord. 169, passed 8-9-1988)

### **SEWER SERVICE CHARGE SYSTEM**

#### **§ 51.25 DEFINITIONS.**

For the purpose of §§ 51.25 *et seq.*, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ADMINISTRATION.** Those fixed costs attributable to the city's administration of the wastewater treatment and collection system.

**BIOCHEMICAL OXYGEN DEMAND OR BOD5.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20°C, expressed in milligrams per liter. It represents the breakdown of carbonaceous materials as distinct from nitrogenous materials.

**CITY.** The area within the corporate boundaries of the City of Nashwauk, Minnesota, as presently established or as amended by ordinance or other legal actions at a future time.

**COMMERCIAL USER.** Any place of business which discharges sanitary waste as distinct from industrial wastewater.

**COMMERCIAL WASTEWATERS.** Domestic strength wastewater emanating from a place of business as distinct from industrial wastewater.

**DEBT SERVICE CHARGE.** A charge levied on the users of wastewater treatment and collection facilities for the cost of repaying money obtained to construct the facilities.

**EQUIVALENT RESIDENTIAL USER.** A unit of wastewater volume of 211 gallons per day at a strength not greater than normal domestic strength waste.  
(Ord. 180, passed 9-17-1990)

**EXTRA STRENGTH WASTE.** Wastewater having a BOD5 and/or TSS greater than domestic waste as defined above and not otherwise classified as an incompatible waste.

**GOVERNMENTAL USER.** Users which are agencies or instrumentalities of federal, state, or local government discharging normal domestic strength wastewater.

**INCOMPATIBLE WASTE.** Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals in spite of the treatment method used at Nashwauk, creates a public nuisance, or creates any hazards in the receiving waters of the wastewater treatment works.

[MISSING MATERIAL]

- (1) Entities that discharge into a publicly-owned wastewater treatment system:
  - (a) Liquid wastes resulting from the processes employed in industrial or manufacturing processes; or
  - (b) Liquid wastes resulting from the development of any natural resources. These are identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under 1 of the following divisions:
    1. Division A. Agriculture, Forestry, and Fishing;
    2. Division B. Mining;
    3. Division D. Manufacturing;
    4. Division E. Transportation, Communications, Electric, Gas, and Sanitary Sewers; and/or
    5. Division I. Services.

(2) For the purpose of this definition, domestic waste shall be considered to have the characteristics as defined above.

(3) Any nongovernmental user of a publicly-owned treatment system which discharges wastewater, the treatment system which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, or which constitutes a hazard to humans or animals in spite of treatment, or which creates a public nuisance, or which creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

**INDUSTRIAL WASTEWATER.** The liquid, gaseous, and solid processing wastes from an industrial manufacturing process, trade, or business, including but not limited to all Standard Industrial Classification Manual Division A, B, D, E, and I manufacturers as distinct from domestic wastewater.

**INSTITUTIONAL USER.** Users other than commercial, governmental, industrial, or residential users, discharging primarily normal domestic strength wastewater (e.g. nonprofit organizations).

**NORMAL DOMESTIC STRENGTH WASTEWATER.** Wastewater characterized by wastes created in the preparation of foods, bathing, laundry facilities, and water-carried human waste whose characteristics do not exceed 270 mg/1 BOD5 and 320 mg/1 TSS and is identified for the purpose of determining surcharge rates.

**OPERATION AND MAINTENANCE.** Activities required to provide for the dependable and economical functioning of the treatment system, throughout its design or useful life, whichever is longer, and at the level of performance for which the treatment system was constructed. **OPERATION AND MAINTENANCE** includes replacement.

**OPERATION AND MAINTENANCE COSTS.** Expenditures for operation and maintenance costs.

**PUBLIC WASTEWATER COLLECTION SYSTEM.** The system of sanitary sewers owned, maintained, operated, and controlled by the city.

**REPLACEMENT.** Obtaining and installing of equipment, accessories, or appurtenances which are necessary during the design life or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

**REPLACEMENT COSTS.** Expenditures for replacement.

**RESIDENTIAL USER.** A user of the collection and treatment facilities whose premises or building is used primarily as a residence for 1 or more persons, including dwelling units such as detached and semi-detached housing, apartments, and mobile homes, and which discharges primarily normal domestic strength sanitary wastes.

**SANITARY SEWER.** A sewer intended to carry only  
[MISSING MATERIAL]

institutions, together with minor quantities of ground, storm, and surface waters which are not admitted intentionally.

**SEWER SERVICE CHARGE.** The total of charges for operation, maintenance, replacement, and debt service.

**SEWER SERVICE FUND.** A fund into which income from "sewer service charges" is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater treatment and collection. Expenditure of the **SEWER SERVICE FUND** will be for operation, maintenance, and replacement costs; and to retire debt incurred through capital expenditure for wastewater treatment and collection.

**SHALL.** Is mandatory; **MAY** is permissive.

**SLUG.** Any discharge of water or wastewater which in concentration of any given constituent or in quantity flow exceeds for any period of duration longer than 15 minutes more than 5 times the average 24-hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

**STANDARD INDUSTRIAL CLASSIFICATION MANUAL.** Office of Management and Budget, 1972.

**SUSPENDED SOLIDS (SS) OR TOTAL SUSPENDED SOLIDS (TSS).** The total suspended matter that either floats on the surface or is in suspension in water, wastewater, or other liquids, and is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater, latest edition.

**TOXIC POLLUTANT.** The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse affects as defined in standards issued pursuant to § 307(a) of the Clean Water Act, being 33 USC 1317(a) as it may be amended from time to time.

**USER CHARGE.** A charge levied on users of a treatment system for the user's proportionate share of the cost of operation and maintenance, including replacement.

**USERS.** Those residential, commercial, governmental, institutional, and industrial establishments which are connected to the public sewer collection system.

**WASTEWATER.** The spent water of a community, also referred to as sewage. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any ground water, surface water, and storm water that may be present.

**WASTEWATER TREATMENT SYSTEM OR TREATMENT SYSTEM.** An arrangement of any devices, facilities, structures, equipment, or processes owned or used by the city for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities, and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from the treatment.

(Ord. 170, passed 8-9-1988)

## **§ 51.26 ESTABLISHMENT.**

(A) The City of Nashwauk, Minnesota, hereby establishes sewer service charge system whereby all revenue collected from users of the wastewater treatment system will be used to affect all expenditures incurred for annual operation, maintenance, and replacement and for debt service on capital expenditure incurred in construction the wastewater treatment system.

(B) Each user shall pay its proportionate share of operation, maintenance, and replacement costs of the treatment works, based on the users proportionate contribution to the total wastewater flow and loading from all users.

(C) Each user shall pay debt service charges to retire local capital costs as determined by the City Council.

(D) Sewer service rates and charges to users of the wastewater treatment facility shall be determined and fixed in a "sewer service charge system" developed according to the provisions of §§ 51.25 *et seq.* The sewer service charge system developed with the assistance of Howard A. Kuusisto, Consulting Engineers, shall be adopted upon enactment of §§ 51.25 *et seq.*, shall be published in the local newspaper, and shall be effective upon publication. Subsequent



changes in sewer service rates and charges shall be adopted by Council resolution and shall be published in the local newspaper.

(E) Revenues collected for sewer service shall be deposited in a separate fund known as "The Sewer Service Fund." Income from revenues collected will be expended to offset the cost of operation, maintenance, and equipment replacement for the facility and to retire the debt for capital expenditure.

(F) Sewer service charges and the sewer service fund will be administered in accordance with the provisions of § 51.29.

(Ord. 170, passed 8-9-1988) Penalty, see § 10.99

## **§ 51.27 DETERMINATION OF SEWER SERVICE CHARGES.**

(A) (1) Users of the City of Nashwauk, Minnesota, wastewater treatment works shall be identified as belonging to 1 of the following user classes:

- (a) Residential;
- (b) Commercial;
- (c) Industrial;
- (d) Institutional; or
- (e) Governmental.

(2) The allocation of these users to these categories for the purpose of assessing user charges and debt service charges shall be the responsibility of the City Clerk/Treasurer. Allocation of users to user classes shall be based on the substantive intent of the definitions of these classes contained herein.

(B) The rates assessed residential users and those users of other classes who discharge "normal domestic strength wastewater" shall be determined on the basis of wastewater volume only. Those "industrial users" who discharge "normal domestic strength wastewater" only can be classified as "commercial users" for the purpose of rate determination.

(C) The metered user charges assessed residential users and those users of other classes discharging "normal domestic strength wastewater" as described in division (B) above, shall be established proportionately according to billable wastewater volume. Billable wastewater volume shall be calculated as follows.

(1) *Residential users.*

(a) Billable wastewater volume for residential users shall be calculated on the basis of metered water usage. The per quarter billable wastewater volume shall be equal to the average quarterly metered water usage during the fourth and first quarter of the calendar year.

(b) The city may require residential users to install water meters for the purpose of determining billable wastewater volume.

(2) *Non-residential users.*

(a) The billable wastewater volume of non-residential users may be determined in the same manner as for residential users with the following exception. If the City Council determines, through means established by ordinance, that there are significant seasonal variations in the metered water usage of non-residential users; that is, variations resulting in a proportionate increase or decrease in wastewater volume; billable wastewater volume shall be:

1. Calculated on the basis of quarterly metered water usage as recorded throughout the year; and

2. Calculated on the basis of wastewater flow meters.

(b) The city may require non-residential users to install the additional water meters or wastewater flow meters as may be necessary to determine billable wastewater volume.

(D) The basic user charges assessed all users shall be established equally per user hook up. Basic user charges shall be calculated as follows: The total sewage flow will be measured and recorded at the wastewater treatment facility. The total/ metered usage (described in division (C) above) from all users will then be subtracted from the total sewage flow, the result being extraneous flows (infiltration & inflow). The proportion of extraneous flows to the total sewage flow will then be applied to the OM&R costs. The resultant OM&R portion will then be added to the total administration costs and divided equally among all users (per connection basis).

(E) The sewer service charge shall consist of a user charge for operation, maintenance, and replacement and a charge for debt service on the treatment system. These charges will be determined as follows.

(1) *User charge per user.*

(a) *Generally.* The user charge per user will be computed in 2 parts, 1 part being a basic user charge and the other part a metered user charge. The total of these 2 charges will comprise the user charge.

$$Uc = Ucb + Ucm$$

Where: Uc = quarterly user charge;  
Ucb = quarterly basic user charge; and  
Ucm = quarterly metered user charge.

(b) *Basic user charge.* The basic user charge will be an amount equal to the proportion of flow attributable to the infiltration and inflow of the total sewage flow as applied to the OM&R costs plus the total costs of administration duties applicable to the wastewater treatment facility. The basic user charge will then be distributed equally among all users of the wastewater treatment facility.

[MISSING MATERIAL]

Where: Ucb = quarterly basic user charge;  
Comr = total quarterly OM&R costs;  
Nu = total number of users;  
Ca = total quarterly administration costs;  
I & I = infiltration & inflow flow; and  
Tf = total flow to the treatment facility.

(c) *Metered user charge.* The metered user charge will be an amount equal to the proportion of flow attributable to the metered use (as described in division (C) above) of the total sewage flow as applied to the OM&R costs.

$$Ucm = Mu/Tf \times Comr$$

Where: Ucm = quarterly metered user charge;  
Mu = metered use described in division (C) above;  
Comr = total quarterly OM&R costs; and  
Tf = total flow to the treatment facility.

(2) *Debt service charge per user.*

(a) [Insert Assessment Plan]

(b) The method of development for the sewer service charge is attached as Appendix A. Appendix A shall be reviewed annually as provided for in § 51.29.

(F) (1) (a) The city may, at its discretion, require non-residential users to install wastewater samplers for the purpose of determining wastewater volume and loading.

(b) When so required, the samplers shall be of a type approved by the city and located at a sufficient number of sites to permit determination of wastewater characteristics.

(2) The measurement of the wastes shall be conducted according to the latest edition of Standard Methods for the Examination of Water and Wastewater in a manner acceptable to the city as provided for in §§ 51.01 *et seq.*

(G) The sewer service charges established in §§ 51.25 *et seq.* shall not prevent either the assessment of additional charges to users who discharge wastes with concentrations greater than "normal domestic strength" or wastes of unusual character, or contractual agreements with the users, as long as the following conditions are met.

(1) No user is charged at a rate less than that of "normal domestic strength wastewater."

(2) The user pays operation, maintenance, and replacement costs in proportion to the user's contribution of wastewater flow and loading to the treatment plant.

(3) The measurements of the wastes are conducted according to the latest edition of Standard Methods for the Examination of Water and Wastewater in a manner acceptable to the City Council as provided for in §§ 51.01 *et seq.*

(4) The city's NPDES permit and sewer use regulations are not violated.

(5) A study of unit costs of treatment processes attributable to flow, BOD, TSS, and other significant loadings shall be developed for determining the proportionate allocation of costs to users discharging wastes of greater than "normal domestic strength" or wastes of unusual character.

(Ord. 170, passed 8-9-1988)

## **§ 51.28 SEWER SERVICE FUND.**

(A) The City of Nashwauk, Minnesota, hereby establishes a "Sewer Service Fund" as an income fund to receive all revenues generated by the sewer service charge system, and all other income dedicated to the operation, maintenance, replacement, and construction of the wastewater treatment works, including taxes, special charges, fees, and assessments intended to retire construction debt. The city also establishes the following accounts as income and expenditure accounts within the Sewer Service Fund:

(1) Operation and Maintenance Account;

(2) Equipment Replacement Account; and

(3) Treatment System Debt Retirement Account.

(B) (1) All revenue generated by the sewer service charge system, and all other income pertinent to the treatment and collection systems, including taxes and special assessments dedicated to retire construction debt, shall be held by the Clerk/Treasurer separate and apart from all other funds of the city.

(2) Funds received by the Sewer Service Fund shall be transferred to the accounts established in division (A) above in accordance with state and federal regulations and the provisions of §§ 51.25 *et seq.*

(C) (1) Revenue generated by the sewer service charge system sufficient to insure adequate replacement throughout the design or useful life of the wastewater facility shall be held separate and apart in the Equipment Replacement Account and dedicated to affecting replacement costs.

(2) Interest income generated by the Equipment Replacement Account shall remain in the Equipment Replacement Account.

(D) Revenue generated by the sewer service charge system sufficient for operation and maintenance shall be held separate and apart in the Operation and Maintenance Account. (Ord. 170, passed 8-9-1988)

### **§ 51.29 ADMINISTRATION.**

The sewer service charge system and Sewer Service Fund shall be administered according to the following provisions.

(A) (1) The City Clerk/Treasurer shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement, and debt retirement costs of the treatment facility, and shall furnish the City Council with a report of the costs annually in February.

(2) (a) The City Council shall annually determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement, and management of the treatment works, and whether sufficient revenue is being generated for debt retirement.

(b) The Council will also determine whether the user charges are distributed proportionately to each user in accordance with § 51.26(B) and § 204(b)(2)(a) of the Federal Water Pollution Control Act, being 33 USC 1284, as it may be amended from time to time.

(3) The city shall thereafter, but not later than the end of the year, reassess, and as necessary revise the sewer service charge system then in use to insure the proportionality of the user charges and to insure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

(B) In accordance with federal and state requirements,  
*[MISSING MATERIAL]*  
service charge attributable to operation, maintenance, and replacement.

(C) In accordance with federal and state requirements, the City Clerk/Treasurer shall be responsible for maintaining all records necessary to document compliance with the sewer service charge system adopted.

(D) (1) Bills for sewer service charges shall be rendered on a quarterly basis succeeding the period for which the service was rendered and shall be due 30 days from the date of rendering.

(2) Any bill not paid in full 10 days after the due date will be considered delinquent.

(3) At that time, the city shall notify the delinquent user and owner, in the case of rented property, in writing regarding the delinquent bill and subsequent penalty.

(4) The penalty shall be computed as 5% of the original bill and shall be increased the same 5% for every quarter the bill is outstanding.

(E) The owner of the premises shall be liable to pay for the service to the premises, and the service is furnished to the premises by the city only upon condition that the owner of the premises is liable therefore to the city.

(F) Any additional costs caused by discharges to the treatment works of toxic substances or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and restoration of the receiving waters and environs, fines or penalties levied by regulatory agencies, and sludge disposal, shall be born by the discharger(s) of the wastes, at no expense to the city.

(Ord. 170, passed 8-9-1988)

### **§ 51.30 VIOLATIONS.**

(A) (1) Each and every sewer service charge levied by and pursuant to §§ 51.25 *et seq.* is hereby made a lien upon the lot or premises served, and all the charges which are on January 15 of each year past due and delinquent shall be certified to the Auditor of Itasca County, Minnesota, as taxes of assessments on the real estate.

(2) Nothing in §§ 51.25 *et seq.* shall be held or construed as in any way stopping or interfering with the right of the city to levy as taxes or assessment against any premises affected by any delinquent or past due sewer service charges.

(B) (1) As an alternative to levying a lien, the city may, at its discretion, file suit in a civil action to collect the amounts as are delinquent and due against the occupant, owner, or user of the real estate, and shall collect as well all attorney's fees incurred by the city in filing the civil action.

(2) The attorney's fees shall be fixed by order of the court.

(C) In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being served by the treatment works shall be liable for interest upon all unpaid balances at the rate of 9% per annum. (Ord. 170, passed 8-9-1988) Penalty, see § 10.99

### **§ 51.31 SYSTEM PRECEDENCE; EFFECTIVE DATE.**

(A) The sewer service charge system shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of § 204(b)(1)(a) of the Act, being 33 USC 1284, as it may be amended from time to time, and 40 C.F.R. pt. 35.2140 of the Environmental Protection Agency's grant regulations, as it may be amended from time to time.

(B) Sections 51.25 *et seq.* shall be in full force and take effect from and after its passage and approval and publication as provided by law. (Ord. 170, passed 8-9-1988)

## CHAPTER 52: FRANCHISES

---

Section

|       |                                                       |
|-------|-------------------------------------------------------|
| 52.01 | Findings of the City Council as to utility franchises |
| 52.02 | Franchise required                                    |
| 52.03 | Term                                                  |
| 52.04 | Franchise fee                                         |
| 52.05 | Definitions                                           |
| 52.06 | Effective date                                        |

**Cross reference:**

*For individual franchises, see Table of Special Ordinances I*

### § 52.01 FINDINGS OF THE CITY COUNCIL AS TO UTILITY FRANCHISES.

(A) The laws of the State of Minnesota have uniformly and traditionally afforded to Minnesota cities the right and obligation to license, franchise, or permit the operation of utility services within a city as a condition and requirement of providing such services.

(B) On the date hereof, 1 or more utility service providers operate within the city without the benefit of a license, permit, or franchise from the city, and without payment of any financial consideration to city in the manner of a franchise fee.

(C) The application of uniform standards and requirements to all existing and future utility service providers within and throughout the city, including the imposition of franchise and franchise fee requirements, will promote the public welfare and safety and will afford city utility customers and taxpayers reasonably comparable and equitable treatment by the city.  
(Ord. 217-10, passed 1-12-2010)

### § 52.02 FRANCHISE REQUIRED.

(A) Except pursuant to a franchise granted by the city, no person shall:

(1) Operate a utility or perform any 1 or more of the traditional functions of a utility, including but not limited to, transmitting, furnishing, transporting, distributing, delivering, selling, receiving, importing, manufacturing, or causing to be produced, transmitted, furnished, transported, delivered, sold, received, imported, or manufactured, electric energy, natural gas, mixed gas, heat, light, power, and services provided through a cable communication system to or for the public, or to or for any 1 or more persons within the corporate limits of the city.

(2) Place or maintain any permanent or semi-permanent fixtures or facilities in, over, upon, or under any street, highway, alley, right-of-way, public property, or public place for the purpose of operating a utility or performing any 1 or more of the traditional functions of a utility to or for the public, or to or for any 1 or more persons within the corporate limits of the city.

(B) A franchise shall be granted only by ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise, except to the extent reserved

to the Council by this chapter, any other city ordinance, or by law for the public health and safety. The grantee shall bear the costs of the publication of the franchise ordinance, and shall make a sufficient deposit with the City Clerk to guarantee publication before the ordinance is passed.

(Ord. 217-10, passed 1-12-2010) Penalty, see § 10.99

### **§ 52.03 TERM.**

No exclusive or perpetual franchise or privilege shall ever be granted or created, nor shall any franchise or privilege be granted for a term of more than 25 years.

(Ord. 217-10, passed 1-12-2010) Penalty, see § 10.99

### **§ 52.04 FRANCHISE FEE.**

(A) As a part of any franchise ordinance adopted, the city may impose upon the grantee a franchise fee. The franchise fee may be expressed: (1) as a specified charge per measurable unit of the utility being provided, transported, transmitted, sold, furnished, delivered, or received within the city; or (2) as a percentage of the gross revenues of the grantee for its operations within the city; or (3) a flat fee per customer based on service to retail customers within the city or on some other similar basis; or (4) in such other manner or fashion as the Council may determine. The method of imposing the franchise fee may differ by customer class, by type of utility, by particular circumstances of a utility, or by other relevant factor, and may combine the methods described in (1) through (4) above.

(B) The franchise fee may be changed by ordinance from time to time. However, no change shall be adopted until at least 30 days after written notice enclosing such proposed ordinance has been served upon the grantee of a franchise by certified mail. The franchise fee may not be changed more often than once in each calendar year.

(Ord. 217-10, passed 1-12-2010)

### **§ 52.05 DEFINITIONS.**

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

**CITY.** With reference to its corporate limits, means such boundaries as they exist on the date of adoption of this chapter and as they may be changed by law from time to time hereafter.

**PERSON.** A natural person, sole proprietorship, partnership, joint venture, corporation, cooperative, limited liability company, political subdivision or agency of the state, other business entity, whether for-profit or non-profit, or any other legal entity that may be created by law.

**UTILITY.** Transmitting, furnishing, transporting, distributing, delivering, selling, receiving, importing, manufacturing, or causing to be produced, transmitted, furnished, transported, delivered, sold, received, imported, or manufactured, electric energy, natural gas, mixed gas, heat, light, power, and services provided through a cable communication system.



***UTILITY SERVICE PROVIDER.*** A person who performs any 1 or more of the activities of a utility and may, as contemplated therein, be the ultimate user or consumer of the utility service provided.

(Ord. 217-10, passed 1-12-2010)

**§ 52.06 EFFECTIVE DATE.**

This chapter shall take effect and be in force from and after its passage and publication.

(Ord. 217-10, passed 1-12-2010)