

**ORDINANCE NO. 4097**

**AN ORDINANCE ADDING SECTION 13.08.215 AND SECTION 13.08.361, AND AMENDING SECTION 13.08.010, SECTION 13.08.350, SECTION 13.08.360, SECTION 13.08.365, AND SECTION 13.08.370, OF THE RAPID CITY MUNICIPAL CODE PERTAINING TO SEWER RATES AND FEES.**

**BE IT ORDAINED** by the City of Rapid City that Section 13.08.010 of Chapter 13.08 of the Rapid City Municipal Code be and is hereby amended to read as follows:

**13.08.010 Definitions.**

The following words, terms and phrases are defined and shall be interpreted as such throughout this chapter and Chapter 13.04. Terms not herein defined shall have the meaning customarily assigned to them:

“Approving authority” means the director of public works or his duly authorized deputy, agent or representative.

“Bedrock” means solid rock underlying soil and loose rock fragments or locally exposed at the surface.

“BOD (biochemical oxygen demand)” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees Celsius expressed in milligrams per liter.

“Building drain” means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer.

“Building sewer (also house connection or service sewer)” means the extension from the building drain to the public sewer or other place of disposal.

“Categorical industrial user” shall be any industry which must comply with categorical pretreatment standards promulgated by EPA in accordance with Section 307(b) and (c) of the Clean Water Act.

“Categorical pretreatment standard,” see “national categorical pretreatment standard.”

“CFR” means Code of Federal Regulations.

“City” means the city of Rapid City, a municipal corporation of the state of South Dakota.

“Clean Water Act” means the Federal Water Pollution Control Act, Public Law 92-500, also known as the Clean Water Act, including all amendments thereto.

“Combined sewer” means a sewer intended to receive both wastewater and storm or surface water.

“Combined wastestream formula (CWF)” means an alternative method of setting discharge limits that can be used by industrial users with several wastestreams applied as described in 40 CFR 403.6(e) or amendments thereto.

“Commercial or institutional users” means all nonresidential users which introduce only domestic wastewater or primarily segregated domestic wastes into a building sewer.

“Conventional pollutant” means biochemical oxygen demand (BOD), oil and grease, total suspended solids (TSS), Ph and fecal coliform bacteria.

“County” means the county of Pennington, a political subdivision in the state of South Dakota.

“Director” means the director of public works of the city of Rapid City, or his authorized deputy, agent or representative.

“Domestic septage” means septage generated from domestic wastewaters.

“Domestic wastewater” means water-carried wastes from dwellings or wastewaters which are similar in physical, biological and chemical characteristics.

“Easement” means an acquired legal right for the specific use of land owned by others.

“EPA” means the United States Environmental Protection Agency.

“Floating oil” means oil, fat or grease in a physical state such that it can be separated by gravity from wastewater in an approved pretreatment facility.

“Garbage” means the putrescible animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

“Groundwater” means the water below the earth surface which occupies the pore spaces in the saturated zone of a geologic stratum.

“Hauled waste manifest” means a document identifying the source and contents of liquid waste.

“Hazardous wastes” means liquid wastes from generators containing materials or exhibiting specific properties identified in 40 CFR 261.

“Holding tank” means a watertight, covered receptacle which is designed to receive and store wastewater and is accessible for periodic removal of its contents.

“Indirect discharge” (also “discharge”) means the introduction of pollutants into the Rapid City wastewater facilities from any nondomestic source regulated under Section 307(b), (c), or (d) of the Clean Water Act.

“Industrial user” means any commercial, institutional or industrial operation that introduces industrial wastewaters into the city’s wastewater facilities.

“Industrial waste” or “industrial wastewaters” means the water-carried wastes from commercial, institutional and industrial operations as distinct from domestic wastewater discharged from dwellings. Industrial wastes shall include, but not be limited to, the trade wastes produced by restaurants, food processing and bottling plants, food manufacturing plants, slaughtering plants, tallow works, plating works, disposal services, industrial cleaning plants, fertilizer plants, car and truck washing operations, laundries, cleaning establishments, cooling plants, industrial plants, factories and hospitals.

“Interference” means such disruption of the collection, treatment or sludge disposal processes or causes the city to violate its national pollutant discharge elimination system permit or which causes the accumulation of toxic metals or other substances in the sludge disposal areas.

“Liquid waste” means wastewater consisting of domestic septage or the contents of holding tanks which receive only domestic wastewater or wastewater from minor industrial users.

“Liquid waste generator” means any person, corporation, residence or commercial establishment that produces liquid waste that is not directly discharged to the sanitary sewer collection system.

“Liquid waste hauler” means one who operates a vehicle equipped to pump out liquid waste containers, hold liquid waste in a tank on the vehicle, and transport said waste to a final disposal site.

“Local limits” means specific prohibitions or limits on pollutants or pollutant parameters as developed by the city in a pretreatment program pursuant to 40 CFR Part 403.5 in order to protect receiving water quality, to prevent disruptions to the wastewater treatment works processes or operations, to ensure that sludge use and disposal practices adequately protect public health and the environment, and to protect the health and safety of workers at the wastewater treatment works.

“May” is permissive. (See “shall.”)

“Minor industrial users” means those industrial users discharging wastes which can be pretreated by simply gravity separation processes. Minor industrial users may include car washing facilities, restaurants and service stations.

“National categorical pretreatment standard” means any general water quality standard developed by EPA under the authority of Section 307(b) of the Clean Water Act and the general pretreatment regulations (40 CFR 403.5 and amendments thereto).

“National pollutant discharge elimination system permit” means the permit issued by EPA to the city which establishes water quality standards for the effluent of the city’s treatment facilities as authorized by the Clean Water Act.

“Natural outlet” means any outlet including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

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

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

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

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

1. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of this section but otherwise alters, replaces or adds to existing process or production equipment;

2. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

- i. Begun, or caused to begin as part of a continuous on-site construction program; or
- ii. Any placement, assembly or installation of facilities or equipment; or
- iii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

- iv. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

“Owner” means the person owning the lot, parcel of land, building or premises connected to and discharging wastewater into the wastewater system of the city, and who is legally responsible for the payment of sewer service charges made against the lot, parcel of land, building or premises.

“Pass-through” means the exit of any physical, biological or chemical material from the city wastewater treatment works to Rapid Creek in quantities or concentrations which, alone or in conjunction with other discharges, produces a violation of the national pollutant discharge elimination system permit.

“Person” means any individual, firm, company, association, governmental agency, society, corporation, group or political subdivision.

“ph” means the logarithm of the reciprocal of the weight of hydrogen ions in grams contained in one liter of solution.

“Premises” means all the parcels of land included in the city in a single assessor’s parcel number.

“Pretreatment program” means a program of procedures developed by the city pursuant to 40 CFR Part 403.8 for reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the wastewater treatment works.

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

“Primarily segregated domestic waste” means that wastewater which is introduced into a building sewer and which contains no more than fifty percent industrial waste, prior to any intentional dilution.

Project Types:

a. “Replacement” A project which replaces or repairs existing infrastructure with similar components having more or less the same capacity as the original.

b. “Improvement” A project which provides for increased capacity, or improved efficiency to existing systems. This type of project is located within the existing City service area, or corporate limits.

c. “Expansion/Economic Development” A project which extends sewer infrastructure to provide service for new developments.

d. “Service Area” The geographic area in which the City currently provides an actual service. This contrasts with a planning service area in which the City may provide service in the future.

“Public sewer” means a sewer located in publicly-owned land or easements and controlled by the city of Rapid City.

“Publicly owned treatment works” or “POTW” means a treatment works as defined by Section 212 of the Clean Water Act, which is owned by a state or municipality (as defined by Section 502(a) of the Clean Water Act). This definition 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 pretreatment plant. The term also means the municipality as defined in Section 502(4) of the Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

“Sanitary sewer” means a sewer which carries domestic wastewater and to which storm, surface and ground waters are not intentionally admitted.

“Septage” means a mixture of liquids and solid materials removed from a septic tank, portable toilet, recreational vehicle holding tank, Type III marine sanitation device, or similar system. The contents of vault privies and substances such as grease trap residues, interceptor residues, and grit and screenings are not included in this definition of septage.

“Septic tank” means a watertight, accessible, covered receptacle which receives wastewater from a building or facility sewer that allows solids to settle from the liquid, provides digestion for organic solids, stores digested solids through a period of retention, and allows a clarified liquid to discharge to additional treatment works for final treatment and dispersal.

“Sewer” means a pipe or conduit for carrying wastewater.

“Shall” is mandatory. (See “may.”)

“Significant industrial users” includes all industrial users subject to categorical pretreatment standards and any noncategorical industrial user which:

- a. Discharges twenty-five thousand gallons per day or more of process wastewater (excluding domestic wastewater and noncontact cooling and boiler blow-down waters);
- b. Contributes a process wastewater which makes up five percent or more of the average dry weather hydraulic or organic capacity of the city’s wastewater treatment system; or

c. Has a reasonable potential in the opinion of the director to affect the operation of the city's wastewater facilities.

“Significant noncompliance” means:

a. Chronic violations of pretreatment standards or ordinance requirements where sixty-six percent or more of the tests exceed daily maximum limit or the average limit in a six-month period or thirty-three percent or more of the tests exceed the daily maximum limit or the average limit by more than forty percent for conventional pollutants and twenty percent for all other pollutants;

b. Major violations of pretreatment standards;

c. Discharges which cause pass-through, interference or endangerment, either alone or in combination with other discharges, to the city's wastewater facilities;

d. Failure to meet compliance deadlines within ninety days of the scheduled dates;

e. Failure to submit reports required by the director within thirty days from the due date or failure to accurately report noncompliance.

Significant noncompliance shall subject an industrial or commercial user to enforcement under this chapter and all related state or federal regulations.

“Slug” means any discharge of water, wastewater or industrial waste in which the concentration of any given constituent or in which quality of flows exceed for any period of duration longer than fifteen minutes more than five times the average twenty-four-hour concentration or flow from the source during normal operation.

“State” means the state of South Dakota.

“Storm drain (also storm sewer)” means a sewer which carries storm and surface waters and drainage, but which excludes wastewater and industrial wastes other than uncontaminated cooling water.

“Superintendent” means the superintendent of the wastewater treatment works or his authorized representative.

“Surcharge industrial users” are those industrial users with pollutants in their wastewaters in excess of limits specified and who are required to pay surcharge fees set forth in Section 13.08.370(B)(3) or (C).

“Surface water” means water on the surface of the earth, as distinguished from groundwater. Some examples are lakes, ponds, rivers and streams.

“Suspended solids (SS)” means total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering using methods prescribed by EPA.

“Unit” means one hundred cubic feet.

“Unpolluted water” means water of quality equal to or better than effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharging to the sanitary sewers and wastewater treatment facilities provided. “Vault privy” means a structure which allows for disposal of human excreta into a watertight vault, provides privacy and shelter, and prevents access to the excreta by flies, rodents and other animals.

“Wastewater” means the spent water of the community. From the standpoint of source, it may be a combination of the liquid and water-carried chemical or solid wastes from residences, commercial buildings, industrial plants and institutions together with any groundwater, surface water and storm water that may be present.

“Wastewater facilities (also wastewater system)” means all facilities for collecting, pumping, transporting, treating and disposing of wastewater and wastewater sludge.

“Wastewaters prohibited from discharge” means those wastewaters prohibited from discharge to the wastewater system as defined in Section 13.08.240 of this chapter.

“Wastewater treatment works” means the facilities provided by the city to treat wastewaters as necessary to meet national pollutant discharge elimination system permit conditions and to comply with other environmental laws, rules and regulations.

“Watercourse” means a natural or artificial channel for the passage of water either continuously or intermittently.

**BE IT FURTHER ORDAINED** by the City of Rapid City that Section 13.08.215 of Chapter 13.08 of the Rapid City Municipal Code be and is hereby added to read as follows:

**13.08.215 Extension of public infrastructure to accommodate individual service connections.**

Any extension of public infrastructure to accommodate individual service connections shall comply with Chapter 16.16 of the subdivision regulations. The cost for installation of sewer infrastructure within a new development is the sole responsibility of the subdivider except for oversize cost as provided for in Section 16.16.100 of Chapter 16.16. The city may, at the discretion of the City Council, choose to pay for a portion of the cost to extend sewer infrastructure to a new development.

**BE IT FURTHER ORDAINED** by the City of Rapid City that Section 13.08.350 of Chapter 13.08 of the Rapid City Municipal Code be and is hereby amended to read as follows:

**13.08.350 Industrial waste permit fees.**

Each permittee shall pay an annual administrative fee of ~~two~~ one-hundred ~~sixty~~ twenty-five dollars effective for all permits approved after January 1, ~~2005~~ 1989.

**BE IT FURTHER ORDAINED** by the City of Rapid City that Section 13.08.360 of Chapter 13.08 of the Rapid City Municipal Code be and is hereby amended to read as follows:

**13.08.360 Connection Permit fees.**

~~Every application for a connection permit, submitted in accordance with Section 13.08.090, shall pay a twenty dollar fee for each building sewer connection.~~

Owners of property desirous of discharging to the sanitary sewer, within the corporate limits of the city, shall have a licensed plumbing contractor or licensed underground utility contractor make application, in writing, to the water and sewer department. Such application to state the name of the owner, a description of the premises, the size of the tap, the kind of service pipe to be used, and the purpose for which it is to be used. Such application must be made at least two days before the work is to be commenced. A permit shall be issued after the application is approved by the director of public works or his designee, and payment is made for both a New Account Fee and tapping fees as provided for in this chapter.

**BE IT FURTHER ORDAINED** by the City of Rapid City that Section 13.08.361 of Chapter 13.08 of the Rapid City Municipal Code be and is hereby added to read as follows:

**13.08.361 Connection and inspection fees**

The New Account Fee shall be fifty five dollars, and provide for the following: An initial field inspection of the private sewer service line from the sewer stub to the structure, mileage, administrative tracking and card drawing. Each additional inspection of the private sewer line shall require the payment of a twenty five dollar re-inspection fee.

**BE IT FURTHER ORDAINED** by the City of Rapid City that Section 13.08.365 of Chapter 13.08 of the Rapid City Municipal Code be and is hereby amended to read as follows:

**13.08.365 Sewer Construction Fees ~~Supplemental tap fees--Certain service areas.~~**

Upon recommendation by the director, the city council may by resolution impose ~~supplemental tap~~ sewer construction fees on individual properties in certain identified, unserved areas when properties in such area are benefited by the installation of a sewer. All users in such service area shall pay an ~~the~~ additional ~~tap~~ sewer construction fee prior to connecting to the sewer. This ~~supplemental tap~~ sewer construction fee shall be in addition to the ordinary tap fees imposed by this chapter. The city may enter into agreements assigning the cost of installation of sewer ~~water~~

mains to serve such service areas. The ordinance codified in this section implements authority granted in SDCL § 9-48-15.

**BE IT FURTHER ORDAINED** by the City of Rapid City that Section 13.08.370 of Chapter 13.08 of the Rapid City Municipal Code be and is hereby amended to read as follows:

**13.08.370 Sewer use charge.**

A. Minimum Rate and Monthly Charge.

1. All wastewater and industrial waste discharged to the wastewater facilities shall be paid for by the tenant or owner of the premises served, according to the following schedule ~~at the rate of one dollar and thirty-four cents per hundred cubic feet~~; provided however, that the minimum monthly charge shall be five ~~four~~ dollars per equivalent single family user.

<u>After the meter reading in:</u>	<u>Rate per unit</u>	<u>Surcharge per unit</u>	<u>Final Rate per unit</u>
<u>January 2005</u>	<u>\$1.61</u>	<u>\$0.14</u>	<u>\$1.75</u>
<u>April 2005</u>	<u>\$1.86</u>	<u>\$0.14</u>	<u>\$2.00</u>
<u>July 2005</u>	<u>\$2.11</u>	<u>\$0.14</u>	<u>\$2.25</u>
<u>October 2005</u>	<u>\$2.36</u>	<u>\$0.14</u>	<u>\$2.50</u>
<u>January 2006</u>	<u>\$2.51</u>	<u>\$0.14</u>	<u>\$2.65</u>
<u>January 2007</u>	<u>\$2.66</u>	<u>\$0.14</u>	<u>\$2.80</u>
<u>January 2008</u>	<u>\$2.81</u>	<u>\$0.14</u>	<u>\$2.95</u>

2. The rate to be paid for sewer service through lines owned by a governmental entity other than the city shall be established by contract.

3. There is established and imposed, pursuant to the authority of SDCL Chapter 9-40, a surcharge upon sewer service, the proceeds of such surcharge to be used for the payment of the principal of and interest on bonds issued under the authority of SDCL Chapter 9-40. No portion of the proceeds of such surcharge shall be expended for any purpose other than retiring sewer bonds until all of such bonds have been retired. The surcharge shall be imposed at the rate of fourteen cents per one hundred cubic feet of wastewater discharge to the wastewater facilities. The charge shall be in addition to any rate per unit charges imposed under subsections (A)(1) or (2) of this section.

4. Whereas the state has imposed the tax denominated as an environmental fee upon municipal sewage collection systems, there is imposed a surcharge as set forth below, in addition to the charges established elsewhere in this article.

The charge shall be based upon the size of the water meter measuring the water supplied to the premises as set forth below:

<b>Meter Size</b>	<b>Annual City Environmental Tax Surcharge</b>
5/8"	\$ 3.15
3/4"	3.55
1"	4.35
1 1/2"	5.60
2"	8.75
3"	34.30
4"	43.75
6"	65.60
8"	87.47
Irrigation	0.00
Unmetered	3.15

Such surcharge shall be billed and collected with the monthly bill for December of each year.

B. Rate Determination. The methods used for determining the sewer use charge shall be as follows:

1. Residential Users. The wastewater flow from residential connections shall be determined each year from the metered water use for three winter months using the water meter readings taken in January, February and March. The average monthly winter use measured in hundreds of cubic feet, shall be multiplied by the applicable rate and the product will determine the monthly sewer use charge for the twelve-month period commencing April 1st for each year. New residential users or intermittent users shall pay a sewer use charge based on the average single-family residential water use of seven hundred cubic feet per month per dwelling unit served and this volume shall be used until the end of the next averaging period (December, January and February). For any of the three averaging months in which the meter is not actually read, the amount of seven hundred cubic feet times the number of dwelling units shall be inserted for that month to determine the average for the three months.

2. Commercial and Institutional Users Discharging Domestic Wastewater. The sewer use charge for commercial and institutional connections discharging wastewaters similar in physical, biological and chemical quality to domestic wastewater shall be determined by multiplying the monthly wastewater volume in one hundred cubic feet by the rate established by subsection A of this section per one hundred cubic feet. The wastewater volume shall be determined from the monthly metered water unless special allowances are made or the wastewater is metered as provided herein.

3. Industrial Users. The sewer charge for industrial connections shall be determined by multiplying the monthly wastewater volume measured in one hundred cubic feet, by the rate established by subsection A of this section per one hundred cubic feet whenever the BOD concentration is less than two hundred sixty mg/l and the suspended solids concentration is less than three hundred mg/l based on the average of flow proportioned, composite samples,

collected at the times, frequencies and in the manner designated by the director. Whenever the BOD concentration exceeds two hundred sixty mg/l or the suspended solids concentration exceeds three hundred mg/l, based on the sampling and testing program specified by the director, a surcharge will be assessed at the following rates on the portion of wastes in excess of two hundred sixty ppm BOD or three hundred ppm TSS: eleven cents per pound of BOD and seven cents per pound of TSS.

C. Special Arrangements. Any industrial user receiving metered water for uses resulting in portions of the water not going to the wastewater facilities may have its sewer use charge adjusted by showing, at the owner's expense, what percentage of the metered water is not discharged to the wastewater facilities. The maximum allowance for irrigation shall be an application rate of twenty four inches per year per square foot of area being irrigated. No allowance will be granted for non-metered irrigation water.

D. Monitoring. All categorical and significant industrial users shall, at their own expense, monitor their wastewater discharge to determine their sewer use rate. Any other industrial user choosing to monitor its discharge may do so at its own expense.

E. Exempt From Monitoring. All minor industrial users shall be exempt from self-monitoring for the purposes of this section.

F. Wastewater Volume Measurement.

1. Any industrial user may choose to measure the actual wastewater flow in lieu of basing the wastewater use charges on the metered water. In such cases, the conditions set forth herein shall apply.

2. Any industrial user receiving nonmetered water shall either install water meters for all nonmetered sources or provide wastewater flow measurement in accordance to the conditions set forth herein.

3. All meters for nonmetered water sources and wastewater flow measurement devices shall be installed in accordance with plans and specifications approved by the director. All costs for design and installation shall be borne by the owner. The owner shall guarantee the city access to the meter or meters for periodic meter reading.

G. Review of Each User's Wastewater Service Charge. If an industrial user has completed in-plant modifications which would change the user's wastewater characteristics or flows, the user can request that the director adjust the industrial user's surcharge rate. The director's decision can be appealed to the city council in a manner designated in Section 13.08.420.

H. A portion of the funds collected pursuant to charges imposed by subsections A and B of this section shall be spent on construction for sewer system replacement, improvement, and expansion/economic development type projects as defined in subsection 13.08.010. Funding will be allocated for replacement and improvement type projects in the sewer construction

department 833. Funding will be allocated for expansion/economic development projects in department 834.

CITY OF RAPID CITY

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer

(SEAL)

First Reading:  
Second Reading:  
Published:  
Effective: