

**ORDINANCE NO. 5458**

**AN ORDINANCE UPDATING THE FEES AND RATES FOR SEWER SERVICE  
BY AMENDING CHAPTER 13.08 OF THE RAPID CITY MUNICIPAL CODE.**

WHEREAS, Chapter 9-48 of the South Dakota Codified Laws delegates to municipalities the authority to establish and operate a municipal sewer system; and

WHEREAS, pursuant to the authority granted to it by the State, the City of Rapid City has established and operates a municipal sewer system; and

WHEREAS, Rapid City's sanitary sewer system is an enterprise fund which must be able to economically support itself without the use of the City's General Fund; and

WHEREAS, the funds required to build, operate and maintain the City's sewer system are generated solely through the fees and rates charged to the sewer system's customers; and

WHEREAS, the fees and rates the City has currently adopted by ordinance are based on a study conducted in 2004; and

WHEREAS, the City's current fee and rate plan which is based on the 2004 study expires this year; and

WHEREAS, the City has identified the necessity for upgrades to the City's water reclamation plant and other capital improvements to the City's sewer system which the current fee and rate structure will not be adequate to support; and

WHEREAS, the City has commissioned a new study of the sewer system fees and rates; and

WHEREAS, the consultant retained by the City to conduct the study has made recommendations on what the City's sewer fees and rates should be in order to be able to adequately support the capital improvements which have been previously identified and to maintain the level of service expected by the City's water customers; and

WHEREAS, the Common Council of the City of Rapid City deems it to be in the City's best interest to update the City's current fee and rate structure for its sewer system, based on the recommendations of its consultant, by amending Chapter 13.08 of the Rapid City Municipal Code.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Chapter 13.08 of the Rapid City Municipal Code is hereby amended to read as follows:

## Chapter 13.08

### **SEWER SERVICE SYSTEM**

Sections:

#### ***Article I. General Provisions***

- 13.08.010 Definitions.
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- 13.08.030 When connection required.
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#### ***Article VI. Enforcement***

- 13.08.440 Prosecution for damage to system.
- 13.08.450 Inspection of premises.
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- 13.08.470 Credentials of city representatives.
- 13.08.480 Notice of violation.
- 13.08.490 Violation-Penalty.
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#### ***Article VII. Liquid Waste Haulers Regulations***

- 13.08.510 Applicability.
- 13.08.520 Administration.
- 13.08.530 Interagency cooperation.
- 13.08.540 Liquid waste disposal.
- 13.08.550 Liquid waste haulage.
- 13.08.560 Liquid waste haulage permits.
- 13.08.570 Operation.
- 13.08.580 Fees.
- 13.08.590 Liability.
- 13.08.600 Penalties.

***Cross-reference:***

*Onsite wastewater disposal and treatment, see Ch. 13.09.*

**ARTICLE I. GENERAL PROVISIONS**

**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.*** The director of public works or his or her duly authorized deputy, agent or representative.

***BEDROCK.*** Solid rock underlying soil and loose rock fragments or locally exposed at the surface.

***Bod (BIOCHEMICAL OXYGEN DEMAND).*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20 degrees Celsius expressed in milligrams per liter.

***BUILDING DRAIN.*** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer.

***BUILDING SEWER (also house connection or service sewer).*** 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 § 307(b) and (c) of the Clean Water Act.

***CATEGORICAL PRETREATMENT STANDARD.*** See national categorical pretreatment standard.

***C.F.R.*** Code of Federal Regulations.

***CITY.*** The city of Rapid City, a municipal corporation of the state of South Dakota.

***CLEAN WATER ACT.*** The Federal Water Pollution Control Act, Public Law 92-500, also known as the Clean Water Act, including all amendments thereto.

***COMBINED SEWER.*** A sewer intended to receive both wastewater and storm or surface water.

**COMBINED WASTESTREAM FORMULA (CWF).** An alternative method of setting discharge limits that can be used by industrial users with several wastestreams applied as described in 40 C.F.R. pt. 403.6(e) or amendments thereto.

**COMMERCIAL or INSTITUTIONAL USERS.** All nonresidential users which introduce only domestic wastewater or primarily segregated domestic wastes into a building sewer.

**CONVENTIONAL POLLUTANT.** Biochemical oxygen demand (BOD), oil and grease, total suspended solids (TSS), pH and fecal coliform bacteria.

**COUNTY.** The county of Pennington, a political subdivision in the state of South Dakota.

**DIRECTOR.** The director of public works of the city of Rapid City, or his or her authorized deputy, agent or representative.

**DOMESTIC SEPTAGE.** Septage generated from domestic wastewaters.

**DOMESTIC WASTEWATER.** Water-carried wastes from dwellings or wastewaters which are similar in physical, biological and chemical characteristics.

**EASEMENT.** An acquired legal right for the specific use of land owned by others.

**EPA.** The United States Environmental Protection Agency.

**FLOATING OIL.** Oil, fat or grease in a physical state such that it can be separated by gravity from wastewater in an approved pretreatment facility.

**GARBAGE.** The putrescible animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

**GROUNDWATER.** The water below the earth surface which occupies the pore spaces in the saturated zone of a geologic stratum.

**HAULED WASTE MANIFEST.** A document identifying the source and contents of liquid waste.

**HAZARDOUS WASTES.** Liquid wastes from generators containing materials or exhibiting specific properties identified in 40 C.F.R. pt. 261.

**HOLDING TANK.** 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**). The introduction of pollutants into the Rapid City wastewater facilities from any nondomestic source regulated under § 307(b), (c), or (d) of the Clean Water Act.

**INDUSTRIAL USER.** Any commercial, institutional or industrial operation that introduces industrial wastewaters into the city's wastewater facilities.

**INDUSTRIAL WASTE** or **INDUSTRIAL WASTEWATERS.** 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.** 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.** 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.** 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.** 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.** Specific prohibitions or limits on pollutants or pollutant parameters as developed by the city in a pretreatment program pursuant to 40 C.F.R. pt. 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.** 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.*** Any general water quality standard developed by EPA under the authority of § 307(b) of the Clean Water Act and the general pretreatment regulations (40 C.F.R. pt. 403.5 and amendments thereto).

***NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT.*** 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.*** Any outlet including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

***NEW SOURCE.***

1. 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 § 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.

2. 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;

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

- a. Begun, or caused to begin as part of a continuous on-site construction program; or
- b. Any placement, assembly or installation of facilities or equipment; or
- c. 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
- d. 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.** 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.** 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.** Any individual, firm, company, association, governmental agency, society, corporation, group or political subdivision.

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

**PREMISES.** All the parcels of land included in the city in a single assessor's parcel number.

**PRETREATMENT PROGRAM.** A program of procedures developed by the city pursuant to 40 C.F.R. pt. 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.** Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

**PRIMARILY SEGREGATED DOMESTIC WASTE.** That wastewater which is introduced into a building sewer and which contains no more than 50% industrial waste, prior to any intentional dilution.

Project Types:

1. **REPLACEMENT.** A project which replaces or repairs existing infrastructure with similar components having more or less the same capacity as the original.

2. **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.

3. **EXPANSION/ECONOMIC DEVELOPMENT.** A project which extends sewer infrastructure to provide service for new developments.

4. **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.** A sewer located in publicly-owned land or easements and controlled by the City of Rapid City.

**PUBLICLY OWNED TREATMENT WORKS** or **POTW.** A treatment works as defined by § 212 of the Clean Water Act, which is owned by a state or municipality (as defined by § 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 § 502(4) of the Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

**RESIDENTIAL USER.** Any utility customer using water for domestic, residential purposes. Includes single family residences, multiple family residences, and mobile home parks without a master meter, but excludes nursing homes, group homes and other similar commercial ventures.

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

**SEPTAGE.** 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.** 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.** 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 non-categorical industrial user which:

1. Discharges 25,000 gallons per day or more of process wastewater (excluding domestic wastewater and noncontact cooling and boiler blow-down waters);
2. Contributes a process wastewater which makes up 5% or more of the average dry weather hydraulic or organic capacity of the city's wastewater treatment system; or
3. Has a reasonable potential in the opinion of the director to affect the operation of the city's wastewater facilities.

***SIGNIFICANT NONCOMPLIANCE.***

1. Chronic violations of pretreatment standards or ordinance requirements where 66% or more of the tests exceed daily maximum limit or the average limit in a 6-month period or 33% or more of the tests exceed the daily maximum limit or the average limit by more than 40% for conventional pollutants and 20% for all other pollutants;
2. Major violations of pretreatment standards;
3. Discharges which cause pass-through, interference or endangerment, either alone or in combination with other discharges, to the city's wastewater facilities;
4. Failure to meet compliance deadlines within 90 days of the scheduled dates;
5. Failure to submit reports required by the director within 30 days from the due date or failure to accurately report noncompliance.
6. Significant noncompliance shall subject an industrial or commercial user to enforcement under this chapter and all related state or federal regulations.

***SLUG.*** 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 15 minutes more than 5 times the average 24-hour concentration or flow from the source during normal operation.

***STATE.*** The state of South Dakota.

***STORM DRAIN*** (also ***STORM SEWER***). A sewer which carries storm and surface waters and drainage, but which excludes wastewater and industrial wastes other than uncontaminated cooling water.

***SUPERINTENDENT.*** The superintendent of the wastewater treatment works or his or her 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 § 13.08.370 B.3. or C.

***SURFACE WATER.*** Water on the surface of the earth, as distinguished from groundwater. Some examples are lakes, ponds, rivers and streams.

***SUSPENDED SOLIDS (SS).*** 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.*** One hundred cubic feet.

***UNPOLLUTED WATER.*** 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.** 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.** 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).** All facilities for collecting, pumping, transporting, treating and disposing of wastewater and wastewater sludge.

**WASTEWATERS PROHIBITED FROM DISCHARGE.** Those wastewaters prohibited from discharge to the wastewater system as defined in § 13.08.240 of this chapter.

**WASTEWATER TREATMENT WORKS.** 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.** A natural or artificial channel for the passage of water either continuously or intermittently.

#### **13.08.020 Public access to information.**

Any records, reports or information obtained under this chapter (i) shall, in the case of industrial user effluent data, be related to any applicable discharge limitation or prohibition, or permit condition, and (ii) shall be available to the public except under a showing satisfactory to the Director by any person that the records, reports or information, or particular party thereof, other than effluent data, to which the Director has access under this chapter, if made public, would divulge methods or procedures entitled to protection as trade secrets of the person. The Director shall consider such record, report or information, or particular portion thereof, confidential in accordance with the purposes of this chapter, except that the record, report or information may be disclosed to officers, employees or authorized representatives of the State of South Dakota or the United States concerned with carrying out the provisions of the Clean Water Act or when relevant in any proceeding under the ordinance codified herein or other applicable laws.

#### **13.08.030 When connection required.**

The owner of any house or building occupied or used by any person, and located so that any part of such house or building is within 400 feet of a public sewer, shall connect such a house or building to a public sewer within 30 days from the time of receiving from the city a written notice to do so. Any extension of city public infrastructure to

accommodate required connections shall comply with Chapter 16.16 of the subdivision regulations.

**13.08.040 Unsanitary disposal of waste prohibited.**

It is unlawful for any person to place, deposit or permit to be placed in any unsanitary manner on public or private property any human or animal excrement or garbage.

**13.08.050 Disposal of wastewater to storm sewers or natural outlet prohibited.**

It is unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any wastewaters except where suitable treatment has been provided in accordance with this chapter.

**13.08.060 Septic tanks, etc., prohibited.**

Except as provided in the plumbing code of the city currently in effect, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility, adapted or used for the disposal of wastewater.

**13.08.070 Plumbing code applicable to private wastewater systems.**

All private wastewater systems shall conform with the city plumbing code currently in effect and with the law of the state.

**ARTICLE II. BUILDING SEWERS AND CONNECTIONS**

**13.08.080 Authority to use, alter or make connection.**

No person except city employees or contractors directly employed by the city who are authorized to do so by the Director shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the Director.

**13.08.090 Building sewer permit-Required.**

A building sewer permit shall be obtained before installing a building sewer or connecting one to the wastewater system.

**13.08.100 Building sewer permit-Classes.**

There shall be 2 classes of building sewer permits. One class shall be for residential dwelling units and the other shall be for commercial, institutional and industrial users.

#### **13.08.110 Building sewer permit-Application.**

The owner or his or her agent shall make application for a building sewer permit on a form furnished by the city. This form may be combined with forms for other permits required by the city. The permit application shall be supplemented by the plans, specifications or other information considered pertinent in the judgment of the Director. Approval of the application shall be contingent upon payment of connection permit fees to the city.

#### **13.08.120 Responsibility for costs-Indemnification of city.**

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

#### **13.08.130 Building sewer required for each lot.**

A separate and independent building sewer shall be provided for each lot. The location of sewer service lines shall be in conformance with the city's standard specifications.

#### **13.08.140 Use of existing building sewers for new buildings.**

Existing building sewers may be used in connection with new buildings only when they are found on examination and testing by the Director to meet all requirements of this chapter.

#### **13.08.150 Building sewer elevation.**

Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is less than 30 inches higher than the invert of the public sewer, domestic wastewater carried by the building drain shall be lifted by an approved means and discharged to the building sewer, or the building drain shall include a check valve maintained by the owner.

#### **13.08.160 Surface runoff and groundwater prohibited.**

No person shall connect roof drains, foundation drains, areaway drains, storm drainage, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to the wastewater system.

#### **13.08.170 Inspection of building sewer construction.**

The person holding a building sewer permit shall notify the Director when the building sewer is ready for inspection and connection to the public sewer. The connection

shall be made during the presence and under the inspection of the Director or his or her representative.

#### **13.08.180 Excavations.**

All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazards. The permittee shall agree to assume responsibility for any public liability or property damage which may result from the work. Streets, sidewalks, parkways or other public property disturbed in the course of the work shall be restored in accordance with the design standards and standard specifications then currently in effect. Permits for building sewers shall also be considered as encroachment permits as required in other sections of the city code.

#### **13.08.190 Maximum size tap on 6-inch line.**

No tap larger than 4 inches shall be made on a 6-inch sewer line.

#### **13.08.200 Manhole connections.**

Any sewer connection larger than 6 inches must be made by means of a manhole. If a 6-inch connection is needed on a 6-inch sewer line, the connection must be made by means of a manhole. All manholes must be constructed to city specifications as required on new sewer lateral construction.

#### **13.08.210 Connections outside city.**

No sewer connection permit shall be issued after the effective date of this chapter to serve any property located outside the corporate limits of the city, except with specific approval of the Common Council. The connections shall be authorized by resolution and shall be subject to such terms, conditions and fees as the Council finds necessary or appropriate.

#### **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 § 16.16.100 of Chapter 16.16. The city may, at the discretion of the Common Council, choose to pay for a portion of the cost to extend sewer infrastructure to a new development.

## **ARTICLE III. USE OF PUBLIC SEWERS**

### **13.08.220 Clean water prohibited from sanitary sewer.**

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater or unpolluted industrial process water to any sewer, except as allowed elsewhere in this chapter.

### **13.08.230 Storm, cooling or unpolluted process water disposal.**

Stormwater and all other unpolluted drainage shall be discharged to the sewers as are specifically designated as storm sewers by the Director. Industrial cooling water or unpolluted process water may be discharged on written approval of the Director to a storm sewer or natural outlet.

### **13.08.240 Materials prohibited in sewers.**

A. No person shall discharge or cause to be discharged any wastewaters to the wastewater system not in conformance with the national prohibited discharge standards, which may cause interference with the operation or performance of the wastewater facilities, or which may pass through the wastewater facilities. Wastewaters prohibited from discharge to the wastewater system under this section shall include those wastewaters:

1. Containing pollutants which create a fire or explosion hazard in the wastewater facilities, including but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C), or any pollutant that may create a health or safety hazard in the wastewater system;
2. That are corrosive or that have a pH lower than 5;
3. Containing solid or viscous pollutants in amounts that will obstruct the flow in the wastewater system;
4. Containing materials that could potentially interfere with the operation of the wastewater treatment facilities;
5. With temperatures above 150°F (65°C), or which cause the wastewater entering the wastewater treatment facilities to exceed 104°F (40°C);
6. Containing radioactive wastes or isotopes in concentrations that exceed limits established by state and federal regulations;
7. Containing petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through;

8. Containing pollutants which result in the presence of toxic gases, vapors or fumes within the wastewater facilities that may cause acute worker health and safety problems;

9. Containing any trucked or hauled pollutants, except at discharge points designated by the Public Works Director or his or her designee.

B. Unless specific limits have been established through the application of categorical pretreatment standards or categorical pretreatment standards modified by the combined wastestream formula, no person shall discharge or cause to be discharged any wastewaters containing the following chemicals with a daily maximum in excess of the local limits stated:

<i><b>Pollutant</b></i>	<i><b>Concentration mg/l</b></i>
Arsenic (As)	0.047
Cadmium (Cd)	0.0310
Chromium (Hexavalent)	0.054
Total Chromium	0.487
Copper (Cu)	0.718
Lead (Pb)	0.346
Mercury (Hg)	0.0002
Nickel (Ni)	0.510
Oil and grease (O & G)	105
Selenium (Se)	0.092
Silver (Ag)	1.2660
Zinc (Zn)	5.307

C. These local limits do not apply to specific chemical constituents contained in an industrial user's wastewaters when limits for the chemical constituent are set by categorical pretreatment standards. Categorical industrial users shall meet the more stringent of the local limits, applicable categorical standards, or, for a combined wastestream, the limits calculated in a manner prescribed by EPA.

#### **13.08.250 Action resulting from deposit of deleterious materials.**

If any wastewaters are discharged to the wastewater facilities which, in the judgment of the Director, may contain materials or have characteristics which will have a deleterious effect upon the wastewater facilities or which may create safety, health or environmental hazards, the Director may:



- A. Reject the wastes;
- B. Require pretreatment to an acceptable condition for discharge to the wastewater facilities;
- C. Require control over the quantities and rates of discharge;
- D. Require payment to cover the added cost of handling and treating the wastes not covered by charges under other provisions of this chapter;
- E. The Director, or his or her designee, shall have the authority to establish additional discharge requirements as necessary for the protection of the wastewater facilities.

**13.08.260 Industrial waste permit.**

- A. No categorical or significant industrial user shall discharge wastewater to the wastewater facilities without having a valid industrial waste permit issued by the Director. A permit may be required for any industrial user as deemed necessary by the Director. All industrial users shall complete and submit an initial contract survey and any other reports required by the Director within 30 days after a written request by the city for the survey or report.
- B. Industrial users shall comply fully with the terms of their permits and the provisions of this chapter. Violation of a permit condition is deemed a violation of this chapter.
- C. Persons proposing to connect to the wastewater facilities and determined by the Director as requiring an industrial waste permit shall request same at least 60 days prior to commencing the discharge to the wastewater system. All permittees shall reapply for a new permit at least 60 days prior to the expiration of the old permit.
- D. All applications shall be in the form prescribed by the Director. The industry shall provide all information that could affect the characteristics of wastewaters to be discharged to the wastewater system.
- E. An applicant or permittee shall notify the Director of any new or increased contribution of pollutants or changes in the nature of pollutants not indicated in the permit application.
- F. Industrial waste permits shall include, but not be limited to the following terms:
  - 1. Notice of the general and specific prohibitions required by § 13.08.240;
  - 2. Prohibitions on discharge of certain materials determine by the Director pursuant to this chapter;
  - 3. Notice of applicable national categorical pretreatment standards;

4. Requirements for installation of pretreatment necessary to achieve compliance with the requirements of this chapter. The design and installation of the technology shall be subject to the review, inspection and approval of the Director, and is also subject to the requirements of all applicable codes, ordinances and federal and state laws;

5. Compliance schedules;

6. Monitoring, sampling, recordkeeping, reporting, notice, control manhole and measuring requirements;

7. Special requirements regarding unusual strength wastewater;

8. Requirements for additional payments;

9. Other conditions necessary to carry out the requirements of this chapter and applicable federal and state laws and regulations.

G. Permits will be issued for a period not to exceed 5 years, but no less than 1 year.

H. Permits are not transferable.

I. Permits may be modified by the Director for just cause upon 30-days' notice. Just cause shall include, but not be limited to:

1. Promulgation of a new applicable national categorical pretreatment standard;
2. Changes in the requirements of this chapter;
3. Changes in processes used by the permittee or changes in discharge volume or character;
4. Changes in design or capability of the wastewater facilities.

J. Permits may be revoked for just cause including, but not limited to violation of any terms and conditions of the industrial waste permit or any other violation of this chapter; obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; and false statements in any required report.

K. The permittee will allow the Director, or his or her designee, with proper identification, to enter the premises for the purpose of inspection, observation, measurement, evaluation, sampling and/or testing a minimum of once per year.

### **13.08.270 Interceptors.**

The following regulations shall govern the pretreatment and discharge of wastewaters from minor industrial users:

A. Grease, oil and solids interceptors shall be installed by each minor industrial user for the proper handling of liquid wastes containing floating oils, fats or grease in excessive amounts or any flammable wastes, or other harmful ingredients. The Director may specify minimum construction standards for interceptors and other pretreatment devices. Suitable pretreatment devices shall be installed by all minor industrial users

when making any modifications to the liquid waste plumbing or prior to January 1, 1995, whichever is the first to occur.

B. Interceptors shall be of a type and capacity approved by the Director and shall be located under cover and shall be readily and easily accessible for cleaning and inspection. Drainwater, unpolluted runoff, groundwaters or unpolluted waste streams shall not be discharged to interceptors.

C. Interceptors approved by the Director shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gaslight and watertight.

D. Interceptors shall be maintained by the owner, at his or her expense, and shall be continuously operated at all times.

E. Failure by the owner to properly clean and maintain interceptors shall be considered sufficient cause for the Director to disconnect the industrial user from the wastewater facilities or to direct that the industrial user discontinue discharging to the wastewater facilities, or for punitive actions as provided for in this chapter.

#### **13.08.280 Screens required.**

In plants processing fruits, vegetables and similar produce, screens shall be provided when, in the opinion of the Director, they are necessary to reduce the concentration of industrial wastes to acceptable levels. Screens shall be of a type and capacity approved by the Director and shall be located so as to be readily and easily accessible for cleaning and inspection. Failure by the owner to properly clean and maintain these units shall be considered sufficient cause for the Director to disconnect the industrial user from the facilities or to direct that the discharge of wastewater to the wastewater facilities be discontinued, or for punitive actions as provided for in this chapter.

#### **13.08.290 Pretreatment facility maintenance.**

Where preliminary treatment, flow measurement, sampling or flow-equalizing facilities are provided for any industrial wastewaters, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

#### **13.08.300 Monitoring, sampling, record keeping, reporting, notice, control manhole and flow measurement requirements.**

A. Industrial users may be required at their own expense, to install, calibrate, operate and maintain sampling or monitoring equipment necessary to determine compliance with this chapter or requirements that may be specified as a condition of the industrial waste permit or to determine wastewater flows and characteristics as required to determine sewer use charges.

B. Industrial users subject to categorical pretreatment standards shall be required, and all other industrial users may be required, to take samples of effluents in accordance with specified methods at the locations, at the intervals and in such a manner as may be prescribed by the Director, which are necessary to determine compliance with categorical pretreatment standards and other requirements contained in the industrial waste permit.

C. Categorical industrial users shall be required to keep records as described in 40 C.F.R. pt. 403.12(n) and amendments thereto. All other industrial users may be required to keep records designated by the Director.

D. Industrial users subject to categorical pretreatment standards shall be required submit to the Director the reports described in 40 C.F.R. pt. 403.12. Industrial users subject to categorical pretreatment standards shall also comply with any additional requirements specified in an applicable categorical pretreatment standard or elsewhere in 40 C.F.R. pt. 403.12, and amendments thereto. The Director prescribe reporting requirements for all other industrial users as he or she determines to be necessary for the enforcement of this article.

E. Industrial users shall notify the Director immediately of any slug loading.

F. If not already required by this section, the Director may require any industrial user to install, at the owner's expense, a suitable device for continuously recording the flow discharged to the city's wastewater facilities. The measuring device may be installed on the source of the water to the industrial plant if that quantity is to be used as the measurement for the wastewater produced. If sufficient evidence is presented to the Director that not all water used reaches the sewer, an estimate will be made by the Director of the proper amount to be deducted to compute the wastewater flow.

G. The Director may require an industrial user to install at its own expense a suitable control manhole to facilitate observation and sampling of industrial waste. The manhole and any monitoring or measuring devices required under subsections A. or F. of this section shall be accessible and safely located and shall be constructed in accordance with plans approved by the Director. They shall be of such design and construction as to prevent infiltration by ground and surface waters, or introduction of slugs or solids to the wastewater facilities. The installation of screens with a maximum opening of 1 inch, but of sufficient fineness to prevent the entrance of objectionable slugs or solids, may be required. The facilities shall be so maintained by the person discharging industrial waste that the Director may readily and safely measure the flow rate or obtain samples of the flow at all times.

### **13.08.310 Testing and sampling procedures.**

All measurements, tests, sampling and analysis of the characteristics of wastewaters discharged to the city's wastewater facilities shall be determined in

accordance with rules, specified in 40 C.F.R. pt. 136, or in the absence of 40 C.F.R. pt. 136 methods, by methods contained in the latest edition of *Standard Methods of Examination of Water and Wastewater*, as published by the American Public Health Association, and shall be determined at the location designated by the public works Director or his or her designee.

#### **13.08.320 Special agreements for unusual strength wastewater.**

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and industrial users whereby an industrial waste may be accepted by the city for treatment subject to payment by the industrial user of additional charges.

#### **13.08.330 Authority to require compliance with federal categorical pretreatment standards.**

A. Upon promulgation of the Federal Categorical Pretreatment Standards (authorized by § 307 of the Clean Water Act) for a particular industrial subcategory, the federal standard, if more stringent than the limitations imposed under this chapter, or in the absence of the applicable pretreatment limitations in this chapter, shall become applicable. The Director shall promptly notify all affected industrial users of the reporting requirements contained in 40 C.F.R. pt. 403.12 and shall require that the reports be signed by an officer of the industry who shall certify the completeness and accuracy of the report.

B. The Director shall have the authority to place all affected industrial users on compliance schedules, receive and analyze reports on progress toward compliance, and insure that all applicable industrial users install the facilities necessary to achieve the required levels of treatment specified by the national categorical standard on or before the deadline specified in the standard. This authority shall also be applicable to those industrial users who discharge substances identified as prohibited discharges.

### **ARTICLE IV. SERVICE CHARGES**

#### **13.08.340 Tap fees.**

If it is necessary to tap a sewer at any place other than where a Y has been placed, the city will make a tap after a regular sewer connection permit has been issued at the following fees:

—A. ~~Four inch tap: \$150;~~

—B. ~~Six inch tap: \$200.~~

	<u><b>2009</b></u>	<u><b>2010</b></u>	<u><b>2011</b></u>	<u><b>2012</b></u>	<u><b>2013</b></u>
<u>Four-inch Tap</u>	<u>\$165</u>	<u>\$182</u>	<u>\$200</u>	<u>\$210</u>	<u>\$220</u>
<u>Six-inch Tap</u>	<u>\$220</u>	<u>\$242</u>	<u>\$266</u>	<u>\$280</u>	<u>\$293</u>

#### **13.08.350 Industrial waste permit fees.**

Each permittee shall pay an annual administrative fee of ~~\$250~~ effective for all permits approved after January 1, 2005 as follows:

<u>User</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Minor User	<u>\$150</u>	<u>\$175</u>	<u>\$200</u>	<u>\$225</u>	<u>\$250</u>
Significant Industrial Users and Categorical Users- Existing	<u>\$250</u>	<u>\$1,500</u>	<u>\$2,000</u>	<u>\$2,500</u>	<u>\$3,000</u>
Significant Industrial Users and Categorical Users-New	<u>\$1,000</u>	<u>\$1,500</u>	<u>\$2,000</u>	<u>\$2,500</u>	<u>\$3,000</u>

### **13.08.360 Connection permit.**

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 2 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 or her designee, and payment is made for both a New Account Fee and tapping fees as provided for in this chapter.

### **13.08.361 ~~Connection and~~ Service line inspection fees.**

The ~~New Account Fee~~ service line inspection fee as shown below shall be \$40, 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 ~~\$25~~ re-inspection fee.

<u>Tap Size</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Service Inspection Fee	<u>\$65</u>	<u>\$72</u>	<u>\$78</u>	<u>\$83</u>	<u>\$87</u>
Re-Inspection Fee	<u>\$30</u>	<u>\$33</u>	<u>\$36</u>	<u>\$38</u>	<u>\$40</u>

### **13.08.365 Sewer construction fees.**

Upon recommendation by the Director, the Common Council may by resolution impose sewer construction fees on individual properties in certain identified, unserved areas when properties in such area are benefitted by the installation of a sewer. All users in such service area shall pay an additional sewer construction fee prior to connecting to the sewer. This 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.

**13.08.370 Sewer use ~~charge~~ rates and charges.**

A. *Minimum rate and monthly charge Unit Rate.*

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; provided however, that the minimum monthly charge shall be \$5 per equivalent single family user. As set forth below, a total unit rate is established that includes a rate per unit associated with operating and non-debt service expense plus a surcharge per unit associated with debt expense.~~

	<u>Rate per Unit</u>	<u>Surcharge per Unit</u>	<u>Final Rate per Unit</u>
<u>Starting with the February 2009 Bill</u>	<u>\$2.27</u>	<u>\$.39</u>	<u>\$2.66</u>
<u>After the Meter Reading in:</u>			
<u>January 2010</u>	<u>\$2.55</u>	<u>\$.35</u>	<u>\$2.90</u>
<u>January 2011</u>	<u>\$2.69</u>	<u>\$.35</u>	<u>\$3.04</u>
<u>January 2012</u>	<u>\$2.79</u>	<u>\$.35</u>	<u>\$3.14</u>
<u>January 2013</u>	<u>\$2.90</u>	<u>\$.35</u>	<u>\$3.25</u>

<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>\$1.87</u>	<u>\$.14</u>	<u>\$2.01</u>
<u>January 2006</u>	<u>\$2.11</u>	<u>\$.14</u>	<u>\$2.25</u>
<u>January 2007</u>	<u>\$2.38</u>	<u>\$.14</u>	<u>\$2.52</u>
<u>January 2008</u>	<u>\$2.68</u>	<u>\$.14</u>	<u>\$2.82</u>

2. The proceeds of the surcharge upon sewer service are to be used for the payment of the principal of and interest on bonds issued under the authority of SDCL Ch. 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.

23. 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 Ch. 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 Ch. 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 \$.14 per 100 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.

B. Meter Charge.

A Meter Charge, based upon the size of the non-irrigation water meter serving the user, shall be paid for by the owner of the premises served. As set forth below, this Meter Charge shall include a charge associated with operating and non-debt service expense plus a surcharge per unit associated with an environmental fee. The environmental fee surcharge covers the tax imposed by the state as an environmental fee upon municipal sewage collection systems.

1. For all Residential users:

<b><u>Starting with the February 2009 Bill</u></b>			
<b><u>Meter Size</u></b>	<b><u>Meter Charge</u></b>	<b><u>Environmental Fee Surcharge</u></b>	<b><u>Total Meter Charge</u></b>
<u>5/8"</u>	<u>\$3.22</u>	<u>\$0.26</u>	<u>\$3.48</u>
<u>3/4"</u>	<u>\$4.17</u>	<u>\$0.26</u>	<u>\$4.43</u>
<u>1"</u>	<u>\$6.06</u>	<u>\$0.26</u>	<u>\$6.32</u>
<u>1.5"</u>	<u>\$10.78</u>	<u>\$0.26</u>	<u>\$11.04</u>
<u>2"</u>	<u>\$16.45</u>	<u>\$0.26</u>	<u>\$16.71</u>
<u>3"</u>	<u>\$29.68</u>	<u>\$0.26</u>	<u>\$29.94</u>
<u>4"</u>	<u>\$48.58</u>	<u>\$0.26</u>	<u>\$48.84</u>
<u>6"</u>	<u>\$95.83</u>	<u>\$0.26</u>	<u>\$96.09</u>
<u>8"</u>	<u>\$152.53</u>	<u>\$0.26</u>	<u>\$152.79</u>
<b><u>After Meter Reading in January 2010</u></b>			
<b><u>Meter Size</u></b>	<b><u>Meter Charge</u></b>	<b><u>Environmental Fee Surcharge</u></b>	<b><u>Total Meter Charge</u></b>
<u>5/8"</u>	<u>\$3.48</u>	<u>\$0.27</u>	<u>\$3.75</u>
<u>3/4"</u>	<u>\$4.50</u>	<u>\$0.27</u>	<u>\$4.77</u>
<u>1"</u>	<u>\$6.54</u>	<u>\$0.27</u>	<u>\$6.81</u>
<u>1.5"</u>	<u>\$11.65</u>	<u>\$0.27</u>	<u>\$11.92</u>
<u>2"</u>	<u>\$17.77</u>	<u>\$0.27</u>	<u>\$18.04</u>
<u>3"</u>	<u>\$32.06</u>	<u>\$0.27</u>	<u>\$32.33</u>
<u>4"</u>	<u>\$52.47</u>	<u>\$0.27</u>	<u>\$52.74</u>
<u>6"</u>	<u>\$103.50</u>	<u>\$0.27</u>	<u>\$103.77</u>
<u>8"</u>	<u>\$164.73</u>	<u>\$0.27</u>	<u>\$165.00</u>
<b><u>After Meter Reading in January 2011</u></b>			
<b><u>Meter Size</u></b>	<b><u>Meter Charge</u></b>	<b><u>Environmental Fee</u></b>	<b><u>Total Meter Charge</u></b>



		<u>Surcharge</u>	
<u>5/8"</u>	<u>\$3.76</u>	<u>\$0.29</u>	<u>\$4.05</u>
<u>3/4"</u>	<u>\$4.86</u>	<u>\$0.29</u>	<u>\$5.15</u>
<u>1"</u>	<u>\$7.07</u>	<u>\$0.29</u>	<u>\$7.36</u>
<u>1.5"</u>	<u>\$12.58</u>	<u>\$0.29</u>	<u>\$12.87</u>
<u>2"</u>	<u>\$19.19</u>	<u>\$0.29</u>	<u>\$19.48</u>
<u>3"</u>	<u>\$34.62</u>	<u>\$0.29</u>	<u>\$34.91</u>
<u>4"</u>	<u>\$56.67</u>	<u>\$0.29</u>	<u>\$56.96</u>
<u>6"</u>	<u>\$111.78</u>	<u>\$0.29</u>	<u>\$112.07</u>
<u>8"</u>	<u>\$177.91</u>	<u>\$0.29</u>	<u>\$178.20</u>

***After Meter Reading in January 2012***

<u>Meter Size</u>	<u>Meter Charge</u>	<u>Environmental Fee Surcharge</u>	<u>Total Meter Charge</u>
<u>5/8"</u>	<u>\$4.06</u>	<u>\$0.30</u>	<u>\$4.36</u>
<u>3/4"</u>	<u>\$5.25</u>	<u>\$0.30</u>	<u>\$5.55</u>
<u>1"</u>	<u>\$7.63</u>	<u>\$0.30</u>	<u>\$7.93</u>
<u>1.5"</u>	<u>\$13.58</u>	<u>\$0.30</u>	<u>\$13.88</u>
<u>2"</u>	<u>\$20.73</u>	<u>\$0.30</u>	<u>\$21.03</u>
<u>3"</u>	<u>\$37.39</u>	<u>\$0.30</u>	<u>\$37.69</u>
<u>4"</u>	<u>\$61.20</u>	<u>\$0.30</u>	<u>\$61.50</u>
<u>6"</u>	<u>\$120.72</u>	<u>\$0.30</u>	<u>\$121.02</u>
<u>8"</u>	<u>\$192.14</u>	<u>\$0.30</u>	<u>\$192.44</u>

***After Meter Reading in January 2013***

<u>Meter Size</u>	<u>Meter Charge</u>	<u>Environmental Fee Surcharge</u>	<u>Total Meter Charge</u>
<u>5/8"</u>	<u>\$4.22</u>	<u>\$0.31</u>	<u>\$4.53</u>
<u>3/4"</u>	<u>\$5.46</u>	<u>\$0.31</u>	<u>\$5.77</u>
<u>1"</u>	<u>\$7.94</u>	<u>\$0.31</u>	<u>\$8.25</u>
<u>1.5"</u>	<u>\$14.13</u>	<u>\$0.31</u>	<u>\$14.44</u>
<u>2"</u>	<u>\$21.55</u>	<u>\$0.31</u>	<u>\$21.86</u>
<u>3"</u>	<u>\$38.89</u>	<u>\$0.31</u>	<u>\$39.20</u>
<u>4"</u>	<u>\$63.65</u>	<u>\$0.31</u>	<u>\$63.96</u>
<u>6"</u>	<u>\$125.55</u>	<u>\$0.31</u>	<u>\$125.86</u>
<u>8"</u>	<u>\$199.83</u>	<u>\$0.31</u>	<u>\$200.14</u>

2. For all Commercial and Institutional users:

<b><i>Starting with the February 2009 Bill</i></b>			
<u>Meter Size</u>	<u>Meter Charge</u>	<u>Environmental Fee Surcharge</u>	<u>Total Meter Charge</u>
<u>5/8"</u>	<u>\$3.59</u>	<u>\$0.26</u>	<u>\$3.85</u>
<u>3/4"</u>	<u>\$4.77</u>	<u>\$0.26</u>	<u>\$5.03</u>

<u>1"</u>	<u>\$7.13</u>	<u>\$0.26</u>	<u>\$7.39</u>
<u>1.5"</u>	<u>\$13.02</u>	<u>\$0.26</u>	<u>\$13.28</u>
<u>2"</u>	<u>\$20.09</u>	<u>\$0.26</u>	<u>\$20.35</u>
<u>3"</u>	<u>\$36.58</u>	<u>\$0.26</u>	<u>\$36.84</u>
<u>4"</u>	<u>\$60.14</u>	<u>\$0.26</u>	<u>\$60.41</u>
<u>6"</u>	<u>\$119.05</u>	<u>\$0.26</u>	<u>\$119.31</u>
<u>8"</u>	<u>\$189.74</u>	<u>\$0.26</u>	<u>\$190.00</u>

**After Meter Reading in January 2010**

<u><b>Meter Size</b></u>	<u><b>Meter Charge</b></u>	<u><b>Environmental Fee Surcharge</b></u>	<u><b>Total Meter Charge</b></u>
<u>5/8"</u>	<u>\$3.66</u>	<u>\$0.27</u>	<u>\$3.93</u>
<u>3/4"</u>	<u>\$4.86</u>	<u>\$0.27</u>	<u>\$5.13</u>
<u>1"</u>	<u>\$7.27</u>	<u>\$0.27</u>	<u>\$7.54</u>
<u>1.5"</u>	<u>\$13.28</u>	<u>\$0.27</u>	<u>\$13.55</u>
<u>2"</u>	<u>\$20.49</u>	<u>\$0.27</u>	<u>\$20.76</u>
<u>3"</u>	<u>\$37.31</u>	<u>\$0.27</u>	<u>\$37.58</u>
<u>4"</u>	<u>\$61.35</u>	<u>\$0.27</u>	<u>\$61.62</u>
<u>6"</u>	<u>\$121.43</u>	<u>\$0.27</u>	<u>\$121.70</u>
<u>8"</u>	<u>\$193.54</u>	<u>\$0.27</u>	<u>\$193.81</u>

**After Meter Reading in January 2011**

<u><b>Meter Size</b></u>	<u><b>Meter Charge</b></u>	<u><b>Environmental Fee Surcharge</b></u>	<u><b>Total Meter Charge</b></u>
<u>5/8"</u>	<u>\$3.88</u>	<u>\$0.29</u>	<u>\$4.17</u>
<u>3/4"</u>	<u>\$5.16</u>	<u>\$0.29</u>	<u>\$5.45</u>
<u>1"</u>	<u>\$7.70</u>	<u>\$0.29</u>	<u>\$7.99</u>
<u>1.5"</u>	<u>\$14.07</u>	<u>\$0.29</u>	<u>\$14.36</u>
<u>2"</u>	<u>\$21.72</u>	<u>\$0.29</u>	<u>\$22.01</u>
<u>3"</u>	<u>\$39.55</u>	<u>\$0.29</u>	<u>\$39.84</u>
<u>4"</u>	<u>\$65.03</u>	<u>\$0.29</u>	<u>\$65.32</u>
<u>6"</u>	<u>\$128.72</u>	<u>\$0.29</u>	<u>\$129.01</u>
<u>8"</u>	<u>\$205.15</u>	<u>\$0.29</u>	<u>\$205.44</u>

**After Meter Reading in January 2012**

<u><b>Meter Size</b></u>	<u><b>Meter Charge</b></u>	<u><b>Environmental Fee Surcharge</b></u>	<u><b>Total Meter Charge</b></u>
<u>5/8"</u>	<u>\$4.12</u>	<u>\$0.30</u>	<u>\$4.42</u>
<u>3/4"</u>	<u>\$5.47</u>	<u>\$0.30</u>	<u>\$5.77</u>
<u>1"</u>	<u>\$8.17</u>	<u>\$0.30</u>	<u>\$8.47</u>
<u>1.5"</u>	<u>\$14.92</u>	<u>\$0.30</u>	<u>\$15.22</u>
<u>2"</u>	<u>\$23.02</u>	<u>\$0.30</u>	<u>\$23.32</u>
<u>3"</u>	<u>\$41.92</u>	<u>\$0.30</u>	<u>\$42.22</u>
<u>4"</u>	<u>\$68.93</u>	<u>\$0.30</u>	<u>\$69.23</u>
<u>6"</u>	<u>\$136.44</u>	<u>\$0.30</u>	<u>\$136.74</u>

8"	\$217.46	\$0.30	\$217.76
<b><u>After Meter Reading in January 2013</u></b>			
<b><u>Meter Size</u></b>	<b><u>Meter Charge</u></b>	<b><u>Environmental Fee Surcharge</u></b>	<b><u>Total Meter Charge</u></b>
5/8"	\$4.36	\$0.31	\$4.67
3/4"	\$5.79	\$0.31	\$6.10
1"	\$8.66	\$0.31	\$8.97
1.5"	\$15.81	\$0.31	\$16.12
2"	\$24.40	\$0.31	\$24.71
3"	\$44.44	\$0.31	\$44.75
4"	\$73.06	\$0.31	\$73.37
6"	\$144.63	\$0.31	\$144.94
8"	\$230.51	\$0.31	\$230.82

3. For all Industrial users:

<b><u>Starting with the February 2009 Bill</u></b>			
<b><u>Meter Size</u></b>	<b><u>Meter Charge</u></b>	<b><u>Environmental Fee Surcharge</u></b>	<b><u>Total Meter Charge</u></b>
5/8"	\$12.30	\$0.26	\$12.56
3/4"	\$17.33	\$0.26	\$17.59
1"	\$27.41	\$0.26	\$27.67
1.5"	\$52.59	\$0.26	\$52.85
2"	\$82.82	\$0.26	\$83.08
3"	\$153.34	\$0.26	\$153.60
4"	\$254.08	\$0.26	\$254.34
6"	\$505.94	\$0.26	\$506.20
8"	\$808.17	\$0.26	\$808.43
<b><u>After Meter Reading in January 2010</u></b>			
<b><u>Meter Size</u></b>	<b><u>Meter Charge</u></b>	<b><u>Environmental Fee Surcharge</u></b>	<b><u>Total Meter Charge</u></b>
5/8"	\$13.53	\$0.27	\$13.80
3/4"	\$19.07	\$0.27	\$19.34
1"	\$30.15	\$0.27	\$30.42
1.5"	\$57.85	\$0.27	\$58.12
2"	\$91.10	\$0.27	\$91.37
3"	\$168.67	\$0.27	\$168.94
4"	\$279.49	\$0.27	\$279.76
6"	\$556.53	\$0.27	\$556.80
8"	\$888.99	\$0.27	\$889.26
<b><u>After Meter Reading In January 2011</u></b>			
<b><u>Meter Size</u></b>	<b><u>Meter Charge</u></b>	<b><u>Environmental Fee</u></b>	<b><u>Total Meter Charge</u></b>

		<u>Surcharge</u>	
<u>5/8"</u>	<u>\$14.88</u>	<u>\$0.29</u>	<u>\$15.17</u>
<u>3/4"</u>	<u>\$20.97</u>	<u>\$0.29</u>	<u>\$21.26</u>
<u>1"</u>	<u>\$33.16</u>	<u>\$0.29</u>	<u>\$33.45</u>
<u>1.5"</u>	<u>\$63.64</u>	<u>\$0.29</u>	<u>\$63.93</u>
<u>2"</u>	<u>\$100.21</u>	<u>\$0.29</u>	<u>\$100.50</u>
<u>3"</u>	<u>\$185.54</u>	<u>\$0.29</u>	<u>\$185.83</u>
<u>4"</u>	<u>\$307.44</u>	<u>\$0.29</u>	<u>\$307.73</u>
<u>6"</u>	<u>\$612.19</u>	<u>\$0.29</u>	<u>\$612.48</u>
<u>8"</u>	<u>\$977.89</u>	<u>\$0.29</u>	<u>\$978.18</u>
<b><i>After Meter Reading in January 2012</i></b>			
<u><b>Meter Size</b></u>	<u>Meter Charge</u>	<u>Environmental Fee Surcharge</u>	<u>Total Meter Charge</u>
<u>5/8"</u>	<u>\$15.77</u>	<u>\$0.30</u>	<u>\$16.07</u>
<u>3/4"</u>	<u>\$22.23</u>	<u>\$0.30</u>	<u>\$22.53</u>
<u>1"</u>	<u>\$35.15</u>	<u>\$0.30</u>	<u>\$35.45</u>
<u>1.5"</u>	<u>\$67.46</u>	<u>\$0.30</u>	<u>\$67.76</u>
<u>2"</u>	<u>\$106.22</u>	<u>\$0.30</u>	<u>\$106.52</u>
<u>3"</u>	<u>\$196.67</u>	<u>\$0.30</u>	<u>\$196.97</u>
<u>4"</u>	<u>\$325.88</u>	<u>\$0.30</u>	<u>\$326.18</u>
<u>6"</u>	<u>\$648.92</u>	<u>\$0.30</u>	<u>\$649.22</u>
<u>8"</u>	<u>\$1,036.56</u>	<u>\$0.30</u>	<u>\$1,036.86</u>
<b><i>After Meter Reading in January 2013</i></b>			
<u><b>Meter Size</b></u>	<u>Meter Charge</u>	<u>Environmental Fee Surcharge</u>	<u>Total Meter Charge</u>
<u>5/8"</u>	<u>\$16.40</u>	<u>\$0.31</u>	<u>\$16.71</u>
<u>3/4"</u>	<u>\$23.12</u>	<u>\$0.31</u>	<u>\$23.43</u>
<u>1"</u>	<u>\$36.56</u>	<u>\$0.31</u>	<u>\$36.87</u>
<u>1.5"</u>	<u>\$70.16</u>	<u>\$0.31</u>	<u>\$70.47</u>
<u>2"</u>	<u>\$110.47</u>	<u>\$0.31</u>	<u>\$110.78</u>
<u>3"</u>	<u>\$204.54</u>	<u>\$0.31</u>	<u>\$204.85</u>
<u>4"</u>	<u>\$338.92</u>	<u>\$0.31</u>	<u>\$339.23</u>
<u>6"</u>	<u>\$674.87</u>	<u>\$0.31</u>	<u>\$675.18</u>
<u>8"</u>	<u>\$1,078.02</u>	<u>\$0.31</u>	<u>\$1,078.33</u>

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:

<i><b>Meter Size</b></i>	<i><b>Annual City Environmental Tax Surcharge</b></i>
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5/8"	\$3.15
3/4"	\$3.55
1"	\$4.35
1½"	\$5.60
2"	\$8.75
3"	\$34.30
4"	\$43.75
6"	\$65.60
8"	\$87.47
Irrigation	0
Unmetered	\$3.15

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

BC. Rate determination. All wastewater and industrial waste discharged to the wastewater facilities shall be paid for by the tenant or owner of the premises served. The methods used for determining the sewer use charge shall be as follows:

1. Residential users. All residential wastewater users shall be assessed a monthly meter charge per the rates under subsection B.1 of this section. The wastewater flow from residential connections shall be determined each year from the metered water use for 3 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 in subsection A.1 of this section and the product will determine the monthly sewer use charge for the 12-month period commencing April 1 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 700 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 3 averaging months in which the meter is not actually read, the amount of 700 cubic feet times the number of dwelling units shall be inserted for that month to determine the average for the 3 months. Residents experiencing leaks located after the meter during the sewer usage averaging period will be allowed sewer billing adjustments until the completion of the next sewer averaging period following notification by the customer. Sewer usage will be adjusted by taking the last 3 years average, or the minimum billing volume of 700 cubic feet if the record is less than 3 years. Residential users irrigating during any of the 3 months from which the sewer rates are determined will be allowed a rate reduction, as set forth in the previous paragraph. To receive such an adjustment, a residential user must sign an affidavit provided by the Public Works Department, affirming that they irrigated during the time of the sewer charge calculation.

2. *Commercial and Institutional users discharging domestic wastewater.* All Commercial and Institutional wastewater users shall be assessed a monthly meter charge per the rates under subsection B.2 of this section. 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 100 cubic feet by the rate established by subsection A.1 of this section per 100 cubic feet. The wastewater volume shall be determined from the monthly metered water use unless special allowances are made or the wastewater is metered as provided herein.

3. *Industrial users.* All Industrial wastewater users shall be assessed a monthly meter charge per the rates under Subsection B.3 of this section. The sewer charge for industrial connections shall be determined by multiplying the monthly wastewater volume measured in 100 cubic feet, by the rate established by subsection A.1 of this section per 100 cubic feet, whenever the BOD concentration is less than 260 mg/l and the suspended solids concentration is less than ~~300~~ 250 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 260 mg/l or the suspended solids concentration exceeds ~~300~~ 250 mg/l, based on the sampling and testing program specified by the Director, a surcharge will be assessed at the following rates per pound on the portion of wastes in excess of 260 ~~ppm~~ mg/l BOD or ~~300~~ 250 ~~ppm~~ mg/l TSS. ~~\$0.11 per pound of BOD and \$0.07 per pound of TSS.~~

<u>User</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
<u>BOD</u>	<u>\$0.13</u>	<u>\$0.16</u>	<u>\$0.19</u>	<u>\$0.23</u>	<u>\$0.27</u>
<u>TSS</u>	<u>\$0.09</u>	<u>\$0.11</u>	<u>\$0.14</u>	<u>\$0.17</u>	<u>\$0.21</u>

CD. *Non-residential rate adjustments.* Non-residential users may receive an adjustment to their sewer charge for non-irrigation water that is not discharged to the sanitary sewer. Such an adjustment shall only be made if the water is not used for irrigation and if the amount of water that is prevented from being discharged into the sanitary sewer system is metered, or if the actual sewage flow is metered.

E. *Water Rate Relief Program.* Residential sewer users can apply for a freeze on monthly sewer and unit charges. Eligibility for this program is based upon criteria outlined by the State of South Dakota Department of Revenue and Regulation Property Tax Division for the purpose of the Freeze on Assessments of Dwellings of Disabled and Senior Citizens Program. The Sewer Rate Relief program shall be administered through the City Public Works Department. The Director of Public Works shall have the authority to establish policies and procedures for administration of the program and to designate the program's calendar year. In order to qualify for the program an applicant must meet the following criteria:

1. Must either be 65 years of age or older or disabled as defined by the Social Security Act.

2. Income (Applicants Federal adjusted gross income including social security payments) guidelines:

- a. Single income household: Less than \$22,573.68
- b. Multiple income household (must include income of all household members): \$28,217.10.

3. Applicant may own, rent, lease, or have a life estate in the property for which the freeze is applied for. Applicant must physically reside at the property. The sewer bill must be in the Applicant's name. If the residence has multiple units, but is served by only one service line, the residents of the property are not eligible for the program. If the applicant owns or has a life estate in the property it must have a fair market value of less than \$154,950. If the applicant rents or leases the property the rent or lease payment must be less than \$900 for a single person or less than \$1,200 for a multiple income household.

If an applicant qualifies for the program their water and meter rates will remain the same for a period of one year or until the yearly renewal date. The applicant must reapply every year. If the fair market value of the applicants property or the rent paid by them exceeds the threshold amounts, they can still qualify for the program if they were qualified in the immediately preceding year and remain domiciled in the same residence.

DF. 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.

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

FH. 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 non-metered water shall either install water meters for all non-metered sources or provide wastewater flow measurement in accordance to the conditions set forth herein.

3. All meters for non-metered 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.

GH. 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 § 13.08.420.

#### **13.08.380 Annual contracts.**

Industrial users may enter into annual contracts for sewer surcharges based on historical wastewater charges tied to water use or units of production. This alternative must be requested by the industry and the contract must be approved by the Director.

#### **13.08.390 Billing.**

The sewer use billing shall be monthly and shall be based on the rates determined in § 13.08.370. The sewer use bill shall be submitted with the monthly ~~water~~ utility bill and the provisions of §§ 13.04.630 and 13.04.660 shall apply.

#### **13.08.400 Use of fees.**

A. All connection fees and tap fees paid to the city pursuant to this chapter shall be deposited into the wastewater enterprise fund, shall be separately accounted for, and shall be used for the purpose of providing funds for amortizing sewer and storm drain bonds, wastewater facility capital improvements or wastewater facility operation.

B. All sewer use charges, industrial user permit fees and connection fees shall be deposited in the wastewater enterprise fund and used for the purpose of providing funds for payment of wastewater facilities bonds, construction and completion of wastewater facility improvements and for the payment of operation, maintenance and repair of the wastewater facilities.

### **ARTICLE V. APPEALS**

#### **13.08.410 Generally.**

Any person who feels aggrieved by a decision of the Director under this chapter may file an appeal with the Public Works Committee of the Common Council as a utility board of appeals on the terms and conditions hereinafter specified. As such board, the committee shall have the power to adopt, amend or modify any order or determination made by the Director or his or her designee under this chapter.

#### **13.08.420 Filing.**

A. *Form of appeal.* Any person entitled to appeal may do so by filing at the office of the Director within 10 days from the date of determination or order of the Director or his or her designee and the appeal shall contain the following:



1. A heading in the words: Before the Public Works Committee of the Rapid City Common Council;
2. A caption reading Appeal of giving the names of all appellants participating in the appeal;
3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order,
4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;
5. A brief statement in ordinary and concise language of relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside;
6. The signatures of all parties named as applicants and their official mailing addresses;
7. The verification (by declaration under penalty of perjury) of at least 1 appellant as to the truth of the matters stated in the appeal.

B. *Processing of appeal.* Upon receipt of any appeal filed pursuant to this chapter, the Director shall notify the Chairperson of the Public Works Committee and shall present the appeal at the next regular or special meeting of the Public Works Committee.

C. *Scheduling and noticing appeal for hearing.* As soon as practicable after receiving the written appeal, the Utility Board of Appeals shall fix a date, time and place for the hearing of the appeal by the Board. The date shall be not less than 10 days nor more than 60 days from the date the appeal was filed with the Director. Written notice of time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the Director either by causing a copy of the notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his or her address shown on the appeal.

D. *Failure of any person to file an appeal.* In accordance with the provisions of this chapter shall constitute a waiver of his or her right to an administrative hearing and adjudication of the notice and order, or any portion thereof.

E. *Scope of hearing an appeal.* Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

F. *Staying or order under appeal.* Except for certain orders made pursuant to this chapter, enforcement of any notice and order of the Director or his or her designee

issued under this chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

### **13.08.430 Procedure for conduct of hearing.**

A. *Hearing examiners.* The Public Works Committee may appoint 1 or more hearing examiners or designate 1 or more of its members to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted to the committee for decision.

B. *Record.* A record of the entire proceedings shall be made by tape recording, or by any other means of permanent recording determined to be appropriate by the Committee.

C. *Reporting.* The proceedings at the hearing shall also be reported by a phonographic reporter if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. The fees may be established by the committee, but shall in no event be greater than the cost involved.

D. *Continuances.* The committee may grant continuances for good cause shown; however, when a hearing examiner has been assigned to the hearing, no continuances may be granted except by him or her for good cause shown so long as the matter remains before him or her.

E. *Oaths-certification.* In any proceedings under this chapter, the committee, any committee member, or the hearing examiner has the power to administer oaths and affirmation and to certify to official acts.

F. *Reasonable dispatch.* The committee and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

G. *Form of notice of hearing.* The notice to appellant shall be substantially in the following form, but may include other information:

You are hereby notified that a hearing will be held before the Public Works Committee of the Rapid City Common Council at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, at the hour, \_\_\_\_\_ upon the notice and order served upon you. You may be present at the hearing. You may be, but not be represented by counsel, you may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the Public Works Committee.

H. *Subpoenas.*

1. *Filing of affidavit.* The Public Works Committee or examiner may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the Committee or upon the written demand of any party. The issuance and service of the subpoenas shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in his or her possession or under his or her control. A subpoena need not be issued when the affidavit is defective in any particular.

2. *Cases referred to examiner.* In cases where a hearing is referred to an examiner, all subpoenas shall be obtained through the examiner.

3. *Penalties.* Any person who refuses without lawful excuse to attend any hearing, or to produce material evidence in his or her possession or under his or her control as required by any subpoena served upon the person as provided for herein shall be guilty of a misdemeanor.

I. *Conduct of hearing.*

1. *Rules.* Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

2. *Hearsay evidence.* Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

3. *Admissibility of evidence.* Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions in courts of competent jurisdiction in the state.

4. *Oral evidence.* Oral evidence shall be taken only as an oath or affirmation.

5. *Excluding of evidence.* Irrelevant and unduly repetitious evidence shall be excluded.

6. *Rights of parties.* Each party shall have these rights, among others:

- a. To call and examine witnesses on any matter relevant to the issues of the hearing;
- b. To introduce documentary and physical evidence;

- c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
- d. To impeach any witness regardless of which party first called him or her to testify;
- e. To rebut the evidence against him or her;
- f. To represent himself or herself or to be represented by anyone of his or her choice who is lawfully permitted to do so.

7. *Official notice-what may be noticed.* In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of the state or of official records of the Public Works Committee or departments and ordinances of the city or rules and regulations of the Public Works Committee.

8. *Parties to be notified.* Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein or appended thereto.

9. *Opportunity to refute.* Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of the refutation to be determined by the Public Works Committee or hearing examiner.

10. *Inspection of the premises.* The Public Works Committee or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing; provided, that (i) notice of the inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the Committee or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the Committee or hearing examiner.

J. *Method and form of decision.*

1. *Hearing before the public works committee itself.* Where a contested case is heard before the Public Works Committee itself, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision.

2. *Hearing before examiner.* If a contested case is heard by a hearing examiner alone, he or she shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) submit a written report to the committee. The report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report also shall contain a proposed decision in such form that it may be adopted by the Committee as its decision in the case. All examiner's reports filed with the Committee shall be matters of public record. A copy of each such report

and proposed decision shall be mailed to each party on the date they are filed with the Committee.

3. *Consideration of report by committee notice.* The Committee shall fix a time, date and place to consider the examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than 5 days prior to the date fixed, unless it is otherwise stipulated by all of the parties.

4. *Exceptions to report.* Not later than 2 days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach thereto a proposed decision with written argument in support of the decision. By leave of the Committee, any party may present oral argument to the Public Works Committee.

5. *Disposition by the committee.* The Committee may adopt or reject the proposed decision in its entirety, or may modify the proposed decision.

6. *Proposed decisions not adopted.* If the proposed decision is not adopted as provided in subdivision 5. of this subsection, the Committee may decide the case upon the entire record before it, with or without taking additional evidence or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, he or she shall prepare a report and proposed decision as provided in subdivision 2. of this subsection after any additional evidence is submitted. Consideration of the proposed decision by the Committee shall comply with the provisions of this section.

7. *Form of decision.* The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him or her by certified mail, postage prepaid, return receipt requested.

8. *Effective date of decision.* The effective date of the decision shall be as stated therein.

## **ARTICLE VI. ENFORCEMENT**

### **13.08.440 Prosecution for damage to system.**

No unauthorized person shall maliciously, wilfully or negligently deposit materials in a manhole or sewer, break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment; open manholes or enter on any property which is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charges of disorderly conduct.

### **13.08.450 Inspection of premises.**

The Director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter upon the property of all industrial users for the purpose of inspection, observation, measurement, sampling and testing to determine compliance with the provisions of this chapter or any other permits issued thereunder. The Director or his or her duly authorized representative shall have the authority to examine and copy any and all records required to be maintained by industrial users for the purpose of determining compliance with this chapter.

#### **13.08.460 Observance of safety rules.**

While performing the necessary work on private properties referred to in § 13.08.450, the Director or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the industrial user, and the industrial user shall be held harmless for injury or death to the city employees, and the city shall indemnify the industrial user against loss or damage to its property by city employees and against liability claims and damages for personal injury or property damage asserted against the industrial user and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the industrial user to maintain safe conditions as required in this chapter.

#### **13.08.470 Credentials of city representatives.**

The Director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

#### **13.08.480 Notice of violation.**

Any person found to be violating any provision of this chapter, 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. The notice requirements of this section may be waived by the Director if, in the Director's opinion, the violation constitutes an imminent threat to safety or the proper operation of the wastewater facilities.

#### **13.08.490 Violation-Penalty.**

A. Any person who violates the provisions of this chapter who continues any violation beyond the time limit provided for in the notice of violation issued in accordance with § 13.08.480, the violation shall be punishable by a fine not to exceed

\$1,000. Each day in which the violation shall continue shall be deemed as a separate offense.

B. Any industrial user who shall be found to be in significant noncompliance with the provisions of the Clean Water Act, including regulations promulgated by EPA in accordance with the provisions of the Clean Water Act, shall be subject to the penalties provided for in the Clean Water Act and in EPA regulations promulgated under the authorities granted to EPA by the Clean Water Act.

#### **13.08.500 Violation-Liability for related costs.**

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned by the city by reason of the violations. If a user violates the conditions of this chapter and continues to discharge wastewaters after receiving the notice under § 13.08.480, the Director may terminate the facility's service by terminating water service and/or physically disconnecting the facility's sewer service.

### **ARTICLE VII. LIQUID WASTE HAULERS REGULATIONS**

#### **13.08.510 Applicability.**

These regulations shall apply to all liquid waste haulers that dispose of liquid wastes at the wastewater treatment works.

#### **13.08.520 Administration.**

This program will be administered by the Director. The Director will be responsible for the primary enforcement of these regulations.

#### **13.08.530 Interagency cooperation.**

In those cases where statutes, ordinances, regulations or other legal conditions exist which refer to or require approval by the county's Health Officer, the Director will coordinate with said officer for proper liquid waste disposal.

#### **13.08.540 Liquid waste disposal.**

It is unlawful to dispose of liquid waste into surface waters, fractured bedrock, groundwater or in any other manner which would endanger public health. It is also unlawful to dispose of liquid waste in a manner not in compliance with 40 C.F.R. pt. 503.

#### **13.08.550 Liquid waste haulage.**

A. It is unlawful to haul liquid waste in any vehicle that is improperly maintained such that the waste leaks or may reasonably be expected to leak from the tank, pump or associated equipment.

B. Anyone engaged in the business of liquid waste and disposing of liquid wastes at the wastewater treatment works shall be required to obtain a liquid waste haulage owner's permit.

C. Anyone operating a liquid waste hauling vehicle while in the employ of a person or company engaged in the business of liquid waste haulage and disposing of liquid wastes at the wastewater treatment works shall be required to obtain a liquid waste haulage operator's permit.

### **13.08.560 Liquid waste haulage permits.**

A. *General requirements.*

1. Written application, on forms provided by the city, shall be submitted to the Director before a liquid waste hauler's permit will be considered.

2. Applicant shall possess all necessary state and federal licenses.

3. The Director may issue liquid waste haulage permits only after all requirements of the application process have been met. Permits are not transferrable; any may be denied or revoked for violation by the holder of any applicable provision of this ordinance or similar laws or rules of the state.

4. Permits shall expire June 30 of each year unless the permit has been suspended prior to that date. Permits submitted for renewal 30 days or longer following the expiration date will be considered as a new permit and not a renewed permit.

B. *Liquid waste haulage owner's permit.*

1. As part of the application process, all applicants shall make their liquid waste haulage vehicles available for inspection by the Director to ensure that equipment used to pump, haul and dispose of liquid waste is maintained and operated in a sanitary manner and is capable of properly handling and disposing of liquid waste.

2. Each vehicle used for hauling liquid wastes shall be registered with the city and display the owner's permit number in black 3-inch-high numbers, on a white reflective background, in 3 locations on each vehicle. The locations shall be on opposing sides and the back. Permit numbers shall be visible and easily readable at all times.

3. Liquid waste haulage vehicles shall be inspected on a yearly basis as a condition of renewal of the owner's permit to verify continued accordance with these regulations.

C. *Liquid waste haulage operator's permit.*



1. Applicants shall have their application signed by the permitted owner by whom they are employed who shall certify that the applicant is authorized to operate equipment registered by the owner.

2. Operators shall renew their permit annually and at any time they become employed by an owner other than the person who signed the applicant's operator's permit application.

*D. Permit fees.*

1. The permit fee and the annual renewal fee for a liquid waste haulage owner's permit shall be as shown below: \$100 and the annual renewal fee shall be \$25.

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
<u>Permit Fee</u>	<u>\$110</u>	<u>\$121</u>	<u>\$133</u>	<u>\$140</u>	<u>\$147</u>
<u>Annual Renewal Fee</u>	<u>\$28</u>	<u>\$31</u>	<u>\$34</u>	<u>\$36</u>	<u>\$37</u>

2. The permit fee for a liquid waste haulage operator's permit and the annual renewal fee shall be as shown below: \$25 and the annual renewal fee shall be \$10.

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
<u>Operator's Permit</u>	<u>\$28</u>	<u>\$31</u>	<u>\$34</u>	<u>\$36</u>	<u>\$37</u>
<u>Annual Renewal Fee</u>	<u>\$11</u>	<u>\$12</u>	<u>\$13</u>	<u>\$14</u>	<u>\$15</u>

*E. Disposal Fees.*

1. The following fees shall be charged for disposal of liquid waste at the Rapid City Wastewater Treatment Works:

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
<u>Domestic Septage</u>					
<u>First 1,000 gal</u>	<u>\$26.40</u>	<u>\$29.05</u>	<u>\$31.95</u>	<u>\$33.55</u>	<u>\$35.20</u>
<u>Each 500 gal increment in excess of 1,000 gal</u>	<u>\$8.80</u>	<u>\$9.70</u>	<u>\$10.65</u>	<u>\$11.20</u>	<u>\$11.75</u>
<u>Holding Tank Wastes</u>					
<u>First 1,000 gal</u>	<u>\$26.40</u>	<u>\$29.05</u>	<u>\$31.95</u>	<u>\$33.55</u>	<u>\$35.20</u>
<u>Each 1,000 gal increment in excess of 1,000 gal</u>	<u>\$8.80</u>	<u>\$9.70</u>	<u>\$10.65</u>	<u>\$11.20</u>	<u>\$11.75</u>
<u>Portable Toilet Wastes</u>					
<u>First 1,000 gal</u>	<u>\$26.40</u>	<u>\$29.05</u>	<u>\$31.95</u>	<u>\$33.55</u>	<u>\$35.20</u>

<u>Each 500 gal increment in excess of 1,000 gal</u>	<u>\$8.80</u>	<u>\$9.70</u>	<u>\$10.65</u>	<u>\$11.20</u>	<u>\$11.75</u>
<u>Other Hauled Wastes</u>	<u>As determined by the Director of Public Works</u>				

Surcharges for high strength wastes as established is 13.09.370 also apply to holding tank wastes.

### **13.08.570 Operation.**

Only liquid wastes generated within the planning jurisdictional area (3-mile limit) of the city or within the Rapid Creek drainage basin between the Pactola Reservoir Dam and the city's western boundary will be accepted at the wastewater treatment works unless otherwise approved by the Common Council.

#### *A. Manifest requirements.*

1. All liquid waste haulers shall complete a hauled waste manifest for each liquid waste system that is pumped.
2. The liquid waste generator must certify by signature that no known hazardous materials or wastewaters prohibited from discharge are contained in the liquid wastes pumped from their system. The liquid waste hauler shall certify that the liquid wastes disposed at the wastewater treatment works are only those wastes certified by the generator.
3. The top copy of each hauled waste manifest shall be collected at the city's water reclamation facility each time liquid waste is deposited there. The liquid waste hauler shall retain the middle copy of each invoice for a period of at least 3 years. The bottom copy of the hauled waste manifest shall be given to the liquid waste generator following each pumping of a system.
4. Liquid waste manifest forms shall be as provided by the Director.

#### *B. Disposal procedures.*

1. No person shall dispose of liquid waste at the wastewater treatment works without first obtaining permission from the Superintendent. Permission to dispose of liquid waste will not be granted until a complete hauled waste manifest from each generator of liquid waste being disposed is provided to the Superintendent.
2. When the hauler combines liquid wastes from more than 1 generator, the liquid waste hauler shall collect separate representative samples from each generator and shall deliver all such samples with manifests to the superintendent at the time of disposal.

3. No person shall dispose of liquid waste at the wastewater treatment works except in the presence of an authorized designee of the Director.

4. The Superintendent may refuse to accept any liquid waste which, in his or her judgment, may cause interference or pass-through, or may contain hazardous materials or wastewaters prohibited from discharge.

5. Samples of each load disposed at the wastewater treatment works will be collected by the Superintendent.

6. Liquid wastes may be disposed only during regular business hours of the wastewater treatment works. The Superintendent may accept liquid wastes during nonworking hours upon receipt of additional fees as he or she may establish.

7. Any costs incurred by the city as a result of a liquid waste hauler's spillage or damage to the wastewater treatment works facilities shall be reimbursed by the person or company holding the liquid waste haulage owner's permit. Use of the disposal facilities at the wastewater treatment works will be denied to the haulers until all such costs have been paid.

**13.08.580 Fees.**

~~Disposal fees shall be established by resolution of the Common Council.~~

**13.08.590 Liability.**

A. This article shall not be construed as imposing upon the city any liability or responsibility resulting from damage caused by improper collection and/or final disposal of liquid waste, nor shall the city or county or their employees be held as assuming any liability or responsibility by reason or authorized inspection.

B. Liquid waste generators and haulers shall be jointly and severally liable for any and all costs resulting from improper transportation, storage or disposal of liquid wastes.

**13.08.600 Penalties.**

Any person who shall fail to comply with any of the provision of this article, or who shall counsel, aid and/or abet any such violation or failure to comply, shall be subject to a fine of not more than \$200 and not more than 30 days in jail; in addition, a civil penalty of not more than \$1,000 per violation per day may be assessed against any person violating any provision of this article. Each day of violation of this article shall constitute a separate offense.

CITY OF RAPID CITY

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Mayor

ATTEST:

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Finance Officer  
(SEAL)

First Reading:

Second Reading:

Published:

Effective: