

Chapter 146

UTILITIES*

* **Cross References:** Department of public works, § 2-147; solid waste, ch. 122; weights and measures, ch. 158; charter ordinances pertaining to utilities, app. A, § A17-1 et seq.

State Law References: Municipal utilities, K.S.A. 12-826 et seq., 13-1209 et seq.

Article I. In General

Division 1. In General

Sec. 146-1. Cable installation near water or sewer lines.
Secs. 146-2--146-10. Reserved.

Division 2. Utility Rates

Sec. 146-11. Retail water rates.
Sec. 146-12. Wholesale water rates.
Sec. 146-13. Fire protection rates.
Sec. 146-14. Monthly charges established.
Sec. 146-15. ERU rate.
Sec. 146-16. Reserved.
Sec. 146-17. Utility franchise fee refund program.
Sec. 146-18. Water and wastewater utility rate refund program.
Sec. 146-19. No free service or discrimination in rates.
Secs. 146-20--146-25. Reserved.

Article II. Water System

Division 1. Generally

Sec. 146-26. Definitions.
Sec. 146-27. Construction of facilities; sale of water; control by council.
Sec. 146-28. Water superintendent.
Sec. 146-29. Extension of mains; surcharges.
Sec. 146-30. Service outside city.
Sec. 146-31. Depth of water pipes; placement near other pipes.
Sec. 146-32. Application for water service and connection fee.
Sec. 146-33. Unlawful use of reservoir.
Sec. 146-34. Turning off of water.
Sec. 146-35. Work by licensed plumbers only.
Sec. 146-36. Covering valve control box or manhole covers prohibited; cost of regrading or rebuilding.
Sec. 146-37. Water service to owner of real property outside city limits.
Sec. 146-38. Water, water pollution control, and stormwater utility.
Secs. 146-39--146-45. Reserved.

Division 2. Deposit

Sec. 146-46. Required.
Sec. 146-47. Fund.
Sec. 146-48. Default.
Sec. 146-49. Transfer to water utility fund.
Sec. 146-50. Refund upon discontinuation of service.
Secs. 146-51--146-60. Reserved.

Division 3. Fluoridation

Sec. 146-61. Equipment authorized.

Sec. 146-62. Operation under supervision of water division.
Sec. 146-63. Operation expense from water utility fund.
Secs. 146-64--146-75. Reserved.

Division 4. Water Service Line

Sec. 146-76. Definitions.
Sec. 146-77. Applications and standards.
Sec. 146-78. Size.
Sec. 146-79. Specifications for materials.
Sec. 146-80. Installation, alignment, location and inspection.
Sec. 146-81. Water service line termination/abandonment/replacement.
Sec. 146-82. Repair and responsibilities of property owner and city.
Sec. 146-83. Fire protection lines.
Secs. 146-84--146-94. Reserved.

Division 5. Meters

Sec. 146-95. Definitions.
Sec. 146-96. Installation.
Sec. 146-97. Designation of size.
Sec. 146-98. Reserved.
Sec. 146-99. Purchase.
Sec. 146-100. Testing, approval.
Sec. 146-101. Repair.
Sec. 146-102. Tampering.
Sec. 146-103. Replacement.
Sec. 146-104. Reserved.
Sec. 146-105. Hydrant meter--Permit required.
Sec. 146-106. Same--Deposit required.
Sec. 146-107. Same--Fees.
Secs. 146-108--146-115. Reserved.

Division 6. Fire Hydrants

Sec. 146-116. Installation.
Sec. 146-117. Obstruction.
Sec. 146-118. Reserved.
Sec. 146-119. Use by city departments and divisions.
Sec. 146-120. Changing location.
Sec. 146-121. Altering color.
Sec. 146-122. Damage to.
Sec. 146-123. Illegal use of a fire hydrant.
Secs. 146-124--146-135. Reserved.

Division 7. Rates and Charges

Sec. 146-136. Definitions.
Sec. 146-137. Rendering of bills.
Sec. 146-138. Reserved.
Sec. 146-139. Reserved.
Sec. 146-140. Reserved.
Sec. 146-141. Water protection fee.
Sec. 146-142. Computation of combined utility bill.
Sec. 146-143. Application to contracts.
Sec. 146-144. Adjustment of rates.
Sec. 146-145. Rates for water only.
Sec. 146-146. Rates for water consumed from fire hydrants.
Sec. 146-147. Reserved.
Sec. 146-148. Failure to pay; delinquent service fee.
Sec. 146-149. Reserved.
Sec. 146-150. Restoration of water service after payment of delinquency.
Sec. 146-151. Penalties for illegal water service.
Secs. 146-152--146-160. Reserved.

Division 8. Water Conservation

- Sec. 146-161. Definitions.
- Sec. 146-162. Plan established.
- Sec. 146-163. Declaration of policy.
- Sec. 146-164. Authorization.
- Sec. 146-165. Application.
- Sec. 146-166. Wholesale water districts.
- Sec. 146-167. Enforcement; penalty for violations.
- Sec. 146-168. Declaration of water emergency.
- Sec. 146-169. Prohibitions; guidelines for implementation of stages.
- Sec. 146-170. Water conservation stages--Stage 1, Voluntary conservation measures.
- Sec. 146-171. Same--Stage 2, Mandatory conservation measures--Water alert.
- Sec. 146-172. Same--Stage 3, Mandatory conservation measures--Water warning.
- Secs. 146-173--146-195. Reserved.

Article III. Sewers and Sewage Disposal

Division 1. Generally

- Sec. 146-196. Definitions.
- Sec. 146-197. Abbreviations.
- Sec. 146-198. Statement of purpose.
- Sec. 146-199. Statement of policy.
- Sec. 146-200. Applicability.
- Secs. 146-201--146-210. Reserved.

Division 2. Enforcement

- Sec. 146-211. Notice of violation.
- Sec. 146-212. Revocation of wastewater discharge permit.
- Sec. 146-213. Issuance of cease and desist orders.
- Sec. 146-214. Termination of service.
- Sec. 146-215. Liability for damage.
- Sec. 146-216. Injunctions.
- Sec. 146-217. Falsifying information.
- Sec. 146-218. Criminal violations.
- Sec. 146-219. Civil penalties.
- Sec. 146-220. Determination of civil penalties.
- Sec. 146-221. Civil penalty order.
- Sec. 146-222. Regulatory penalty.
- Sec. 146-223. Damage to facilities.
- Sec. 146-224. Publication of list of industrial users with significant noncompliance.
- Secs. 146-225--146-235. Reserved.

Division 3. Sewer Construction and Connections Generally

- Sec. 146-236. Connection required; enforcement.
- Sec. 146-237. Size, location, plans.
- Sec. 146-238. Permit--Required.
- Sec. 146-239. Same--Conditions.
- Sec. 146-240. Sanitary sewer failures and repair responsibilities.
- Sec. 146-241. Settling, collapse of public ways due to faulty sewer installation; repairs; costs.
- Secs. 146-242--146-250. Reserved.

Division 4. Service Outside City

- Sec. 146-251. Approval of connections by engineer; compliance with applicable laws.
- Sec. 146-252. Rates.
- Sec. 146-253. Sewer districts--Application.
- Sec. 146-254. Same--License or contract.
- Sec. 146-255. Conditions of contracts.
- Sec. 146-256. Annexation and funding of sewer service and extensions.
- Sec. 146-257. Agreement for annexation for future connections.

Secs. 146-258--146-270. Reserved.

Division 5. Use Regulations

Sec. 146-271. Combined sewers not to be approved.
Sec. 146-272. Unlawful use and/or maintenance of certain drains, discharges and mechanisms.
Sec. 146-273. Prohibitions on storm drainage and groundwater.
Sec. 146-274. Prohibition on unpolluted water.
Sec. 146-275. Reserved.
Sec. 146-276. Reserved.
Sec. 146-277. Unlawful waste discharges in sanitary sewer.
Sec. 146-278. Federal categorical pretreatment standards.
Sec. 146-279. Limitations--Wastewater strength.
Sec. 146-280. Same--Radioactive wastes.
Sec. 146-281. Same--Use of garbage grinders.
Sec. 146-282. Same--Point of discharge.
Sec. 146-283. Use of grease traps.
Sec. 146-284. Certain connections to be sealed with blind plug until area adjacent to foundation backfilled and compacted.
Sec. 146-285. Basement or excavation water, removal.
Sec. 146-286. Dilution of discharges.
Sec. 146-287. Monitoring facilities.
Sec. 146-288. Pretreatment.
Sec. 146-289. Accidental discharges and/or slug loads.
Secs. 146-290--146-300. Reserved.

Division 6. Wastewater Discharge Permit

Sec. 146-301. When required.
Sec. 146-302. Optional permits.
Sec. 146-303. Application.
Sec. 146-304. Evaluation and acceptance.
Sec. 146-305. Conditions.
Sec. 146-306. Permit modifications to comply with new pretreatment standards.
Sec. 146-307. Duration.
Sec. 146-308. Transfer.
Sec. 146-309. Duties of superintendent.
Sec. 146-310. Inspection and sampling.
Sec. 146-311. Trade secrets.
Sec. 146-312. Reporting requirements.
Sec. 146-313. Notice of hazardous waste discharge.
Sec. 146-314. Recordkeeping.
Secs. 146-315--146-325. Reserved.

Division 7. Septic Tank Truck Operators

Sec. 146-326. Liquid waste haulers, discharge permit required.
Sec. 146-327. Liquid waste discharge permit application, application fee.
Sec. 146-328. Reserved.
Sec. 146-329. Reserved.
Sec. 146-330. Reserved.
Sec. 146-331. Control authority.
Sec. 146-332. Permit, conditions, renewal.
Sec. 146-333. Liquid waste discharge location, fees, manifest.
Sec. 146-334. Discharge of contents from holding tanks.
Sec. 146-335. Change in liquid waste profile.
Sec. 146-336. Rights of refusal.
Sec. 146-337. Enforcement.
Sec. 146-338. Liquid waste hauler; regulatory penalty.
Sec. 146-339. Liquid waste hauler; damage to facilities.
Sec. 146-340. Liquid waste hauler; criminal.

Division 8. Sewage Connection and Disposal Charges

Sec. 146-341. Connection fees and monthly rates/charges established.
Sec. 146-342. Calculation of charges and classification of users.

Sec. 146-343. Standard classification charges.
Sec. 146-344. Special treatment conditions.
Sec. 146-345. Special metering conditions.
Sec. 146-346. Rendering of bills.
Sec. 146-347. Effective date for charges.
Sec. 146-348. Payment required; no discrimination.
Sec. 146-349. Sewage disposal system fund.
Sec. 146-350. Certification of names of water users without sewage connection.
Sec. 146-351. Failure to pay bill.
Sec. 146-352. Charges for restoring service.
Sec. 146-353. Overpayment or underpayment.
Secs. 146-354--146-375. Reserved.

Article IV. Stormwater Utility

Division 1. Generally

Sec. 146-376. General.
Sec. 146-377. Statement of intent.
Sec. 146-378. Definitions.
Sec. 146-379. Findings, determinations and powers.
Sec. 146-380. Operating budget.
Secs. 146-381--146-395. Reserved.

Division 2. Stormwater Drainage Fee

Sec. 146-396. Established.
Sec. 146-397. Fee for residential developed property.
Sec. 146-398. Fee for nonresidential developed property.
Sec. 146-399. Dwelling unit and impervious surface calculation--Generally.
Sec. 146-400. Same--Appeal.
Sec. 146-401. ERU, rate.
Sec. 146-402. Collection of fee.
Sec. 146-403. Program responsibility.
Sec. 146-404. Stormwater utility enterprise fund.
Secs. 146-405--146-450. Reserved.

Article V. Surface and Ground Water Quality Regulations

Sec. 146-451. Statement of purpose.
Sec. 146-452. Definitions.
Sec. 146-453. Prohibition of illicit discharges into the municipal separate storm sewer system.
Sec. 146-454. Exceptions.
Sec. 146-455. Reporting of accidental discharges into the municipal storm sewer system.
Sec. 146-456. Responsibility for costs of accidental discharge.
Sec. 146-457. Construction sites of five acres or greater of total disturbed area.
Sec. 146-458. Construction sites of less than five acres but greater than one acre of total disturbed area.
Sec. 146-459. Application for a city permit for construction activity.
Sec. 146-460. Submittal of best management practices.
Sec. 146-461. Regulation of construction sites.
Sec. 146-462. Best management practices requirements.
Sec. 146-463. Construction activity permit issuance; criteria for approval, suspension, and revocation.
Sec. 146-464. Completion of construction work.
Sec. 146-465. Fees.
Sec. 146-466. Regulation of industrial activities.
Sec. 146-467. Sampling of storm water runoff by each industry.
Sec. 146-468. Inspection of industrial facilities.
Sec. 146-469. Citizen participation.

ARTICLE I.

IN GENERAL

DIVISION 1.

IN GENERAL

Sec. 146-1. Cable installation near water or sewer lines.

(a) It shall be unlawful for any utility company operating under a franchise agreement with the city to install any cables, mains or conduits within the clear zone of any water or sewer lines; however, cables, mains or conduits which crossover the water or sewer lines at a 90-degree angle are permitted.

(b) For purposes of this section only, the term "clear zone" shall mean an area extending from ground level to the bottom of the water or sewer line and 18-inches, measured horizontally, from either side of the water or sewer line. This is illustrated in the diagram below.

GRAPHIC UNAVAILABLE: [Click here](#)

(c) The city shall not be responsible for the cost of repairs to any cable, mains or conduits determined to be in violation of this article.

(d) Nothing in this article shall be construed to hold any city excavator harmless from liability in cases of gross negligence or willful and wanton conduct.
(Code 1981, § 44-2; Ord. No. 16990, § 1, 8-15-96)

Secs. 146-2--146-10. Reserved.

DIVISION 2.

UTILITY RATES

Sec. 146-11. Retail water rates.

The following are hereby established as the monthly retail water rates, effective on the dates specified which the consumer shall pay for water furnished them by the water division of the City of Topeka.

(1) *Inside city:*

	May 1, 2008	Jan. 1, 2009	Jan. 1, 2010	Jan. 1, 2011
First 1,500 gallons				
Minimum bill	\$15.00	\$15.00	\$15.00	\$15.00
(per 1,000 gallons over minimum)				
Single-family	\$3.28	\$3.38	\$3.48	\$3.58
Multifamily				
	2.67	2.75	2.83	2.91
Commercial				

	2.42	2.49	2.56	2.64
Industrial				
	2.06	2.12	2.18	2.25

(2) *Outside city:*

	May 1, 2008	Jan. 1, 2009	Jan. 1, 2010	Jan. 1, 2011
First 1,500 gallons				
Minimum bill	\$26.25	\$26.25	\$26.25	\$26.25
(per 1,000 gallons over minimum)				
Single-family	\$5.74	\$5.91	\$6.09	\$6.27
Multifamily				
	4.67	4.81	4.95	5.10
Commercial				
	4.23	4.36	4.49	4.62
Industrial				
	3.61	3.72	3.83	3.94

(Ord. No. 18124, § 7, 11-18-03; Ord. No. 19074, § 1, 4-15-08)

Sec. 146-12. Wholesale water rates.

The following are hereby established as the monthly wholesale water rates, effective on the dates specified which the wholesale customers shall pay for water furnished them by the water division of the City of Topeka:

(1) *Rural water districts:*

		May 1, 2008	Jan. 1, 2009	Jan. 1, 2010	Jan. 1, 2011
a.	<i>Jackson Co. No. 1 --</i> First 2,748,000 gallons--Minimum charge per month	\$9,508.00	\$9,783.00	\$10,058.00	\$10,387.00
	Over 2,748,000 gallons per month	3.46	3.56	3.66	3.78
b.	<i>Shawnee CRWD No. 1--</i> First 2,992,000 gallons--Minimum charge per month	10,352.00	10,652.00	10,951.00	11,310.00
	Over 2,992,000 gallons per month	3.46	3.56	3.66	3.78
c.	<i>Shawnee CRWD No. 3</i> <i>(formerly RWD No. 6)</i> --First 1,820,000 gallons--Minimum charge per month	6,297.00	6,479.00	6,661.00	6,880.00
	Over 1,820,000 gallons per month	3.46	3.56	3.66	3.78

d.	<i>Shawnee CRWD No. 3 (formerly RWD No. 7)</i> --First 778, 000 gallons--Minimum charge per month	2,692.00	2,770.00	2,847.00	2,941.00
	Over 778,000 gallons per month	3.46	3.56	3.66	3.78
e.	<i>Shawnee CRWD No. 4</i> --First 995,000 gallons--Minimum charge per month	3,443.00	3,542.00	3,642.00	3,761.00
	Over 995,000 gallons per month	3.46	3.56	3.66	3.78
f.	<i>Shawnee Co. No. 8</i> --First 5,402,000 gallons--Minimum charge per month	18,691.00	19,231.00	19,771.00	20,420.00
	Over 5,402,000 gallons per month	3.46	3.56	3.66	3.78
g.	<i>Douglas Co. No. 3</i> --First 623,000 gallons--Minimum charge per month	2,156.00	2,218.00	2,280.00	2,355.00
	Over 623,000 gallons per month	3.46	3.56	3.66	3.78

(2) *Other.* Other contractual rates shall be as follows:

<i>Metro. Topeka Airport Authority</i> --First 1,139,000 gallons--Service charge per month	\$25.00	\$25.00	\$25.00	\$25.00
Minimum charge per month including service charge	3,966.00	4,080.00	4,194.00	4,330.00
Over 1,139,000 gallons per month	3.46	3.56	3.66	3.78

(Ord. No. 18124, § 8, 11-18-03; Ord. No. 18309, § 1, 8-17-04; Ord. No. 19074, § 2, 4-15-08)

Sec. 146-13. Fire protection rates.

(a) Monthly fire protection rates for fire lines or fire connections, effective on the dates specified, shall be as follows:

(1) *Inside city:*

Size of Connection (Inches)	May 1, 2008	Jan. 1, 2009	Jan. 1, 2010	Jan. 1, 2011
4" or less	\$8.52	\$8.78	\$9.04	\$9.31
6"	24.70	25.44	26.20	26.99
8"	52.53	54.11	55.73	57.40
10"	94.35	97.18	100.10	103.10
12"	153.49	158.09	162.83	167.71

(2) *Outside city:*

Size of Connection (Inches)	May 1, 2008	Jan. 1, 2009	Jan. 1, 2010	Jan. 1, 2011
4" or less	\$14.92	\$15.37	\$15.83	\$16.30
6"	43.37	44.67	46.01	47.39
8"	92.95	95.74	98.61	101.57
10"	166.16	171.14	176.27	181.56
12"	268.96	277.03	285.34	293.90

(b) There shall be a fee paid each month to the City of Topeka water division by outside city customers for the maintenance of fire hydrants; such fee charged per month per customer, effective on the dates specified, as follows:

	May 1, 2008	Jan. 1, 2009	Jan. 1, 2010	Jan. 1, 2011
Outside city fire hydrants				
Maintenance fee	\$4.51	\$4.65	\$4.79	\$4.93

(Ord. No. 18124, § 9, 11-18-03; Ord. No. 19074, § 3, 4-15-08)

Sec. 146-14. Monthly charges established.

The following are established as the monthly sewer rates and charges to be paid to the city for discharging wastewater into the sanitary sewer system for bills rendered on or after the effective date of this division.

- (1) *Residential and multifamily residences.* The rate shall be based on a calculated average water volume determined in accordance with City of Topeka Code sections 46-137 and 146-142 for water used in the months of December, January and February. The average water volume determined by this method shall be referred to as the three (3) month winter average. The three (3) month winter average water volume shall be recalculated each year following the three (3) month winter period and shall be in effect for the following twelve (12) month period. For a customer who has not established an average, the charge shall be the average of the residential three (3) month winter average for the applicable meter reading route.
- (2) *Commercial and industrial.* The volume shall be based on the lesser of water volumes determined in accordance with City of Topeka Code § 146-137 or actual metered sewer discharges. Credit shall be given for those metered flows which do not enter the sewer collection system. Those customers who discharge wastewater with a biological oxygen demand in excess of 300 milligrams per liter and/or suspended solids in excess of 300 milligrams per liter will be assessed the excess strength charge in accordance with the schedule of rates and charges in subsection (3).
- (3) *Schedule of rates and charges.*
 - a. *Inside city:*

	May 1, 2008	Jan. 1, 2009	Jan. 1, 2010	Jan. 1, 2011
(per 1,000 gallons)				
Domestic Strength Wastewater:				
Volume Charge - over 1,500 gallons	\$3.43	\$3.57	\$3.71	\$3.86
First 1,500 gallons Minimum bill:	\$14.85	\$14.85	\$14.85	\$14.85
Excess Strength Charges:				
Biochemical Oxygen Demand per mg/l per 1,000 gallons	0.001921	0.001998	0.002078	0.002161
Suspended Solids per mg/l per 1,000 gallons	0.001219	0.001268	0.001318	0.001371

b. *Outside city:*

	May 1, 2008	Jan. 1, 2009	Jan. 1, 2010	Jan. 1, 2011
(per 1,000 gallons)				
Domestic Strength Wastewater:				
Volume Charge - over 1,500 gallons	\$6.00	\$6.25	\$6.50	\$6.75
First 1,500 gallons Minimum bill:	\$26.00	\$26.00	\$26.00	\$26.00
Excess Strength Charges:				
Biochemical Oxygen Demand per mg/l per 1,000 gallons	0.003362	0.003497	0.003637	0.003782
Suspended Solids per mg/l per 1,000 gallons	0.002133	0.002219	0.002307	0.002399

(4) *Adjustment of bills.* The monthly rate and charge on a bill may be adjusted administratively by the water pollution control division to the actual or estimated volume or strength provided a significant change from normal conditions of discharge of waste or strength during the billing period can be demonstrated. In no event shall an adjusted monthly charge be less than the minimum rate as established in this section.

(5) *Implementation.* Rates and charges shall become effective with bills rendered on or after the effective dates shown in the schedule of rates and charges. The initial three (3) month winter average water volume shall be determined as described in subsection (1) of this section for bills rendered after the effective date of this section.

(Ord. No. 18124, § 10, 11-18-03; Ord. No. 19074, § 4, 4-15-08)

Sec. 146-15. Eru rate.

(a) There is hereby established for purposes of calculating the stormwater drainage fee the equivalent residential unit (ERU). The ERU is hereby established to be two thousand eighteen (2,018) feet of impervious area.

(b) The ERU rate to be charged for stormwater drainage fees for each ERU is hereby established as follows:

ERU rates per month:	May 1, 2008	Jan. 1, 2009	Jan. 1, 2010	Jan. 1, 2011
Single-family residence:				
Less than 1,500 sq. ft.	\$2.75	\$2.75	\$2.75	\$2.75
1,501 to 3,500 sq. ft.	4.25	4.25	4.25	4.25
Over 3,500 sq. ft.	6.65	6.65	6.65	6.65
All other residential	4.25	\$4.25	4.25	4.25
All nonresidential	4.25	4.25	4.25	4.25

(c) The following enumerated factors and review process are hereby adopted by the city to evaluate any reductions of stormwater utility fees charged to properties which are located within a duly created drainage district:

- (1) Quantify the functional activities and frequency for the activities that are being performed within a drainage district's boundary within the city's service area by the city.
- (2) Quantify the functional activities and frequency for the activities that are being performed within a drainage district's boundary within the city's service area by the drainage district.
- (3) If an identical function is being performed by the drainage district and is not replicated by the city within the drainage district's service area, quantify the specific unit of service, including but not limited to, length, cross-section area, surface area, number of structures, rehabilitation activities and the frequency for this performance.
- (4) Compare the same function and frequency with the costs appropriate for the city staff to perform an identical activity utilizing the city's budget for that specific function.
- (5) Utilizing the city's cost for a function and the specific units accomplished in the drainage district's boundary, extend the unit cost times the units accomplished to obtain the total annual cost for all identical functions.
- (6) Utilizing the total costs for all functions provided by the drainage district based upon city unit costs, divide this total cost by the ERUs within the drainage district (divided by twelve (12) to obtain monthly) and obtain a "drainage district ERU equivalent cost."
- (7) For all parcels within the specific drainage district boundary and within the city limits, subject the "drainage district ERU equivalent cost" from the city's stormwater ERU rate (monthly).

(d) The public works department is directed to annually review, utilizing the factors and process referenced herein and determine monetary savings, if any, to the city for stormwater services provided by duly created drainage districts. The public works department shall report its determination of savings to the stormwater utility, if any, to the council of the city by June 15th of each year. Rate reductions for properties within duly created drainage districts shall be adopted by separate ordinance and be based upon savings to the stormwater utility.

(e) Utilizing the enumerated factors and review process adopted herein, the stormwater rate reduction for the following duly created drainage districts is as follows:

Shunganunga Drainage District

Kaw River Drainage District

North Topeka Drainage District (per ERU, per month) \$0.83

(Ord. No. 18124, § 11, 11-18-03; Ord. No. 19074, § 5, 4-15-08 eff. 4-15-08)

Sec. 146-16. Reserved.

Editors Note: Ord. No. 19074, § 6, adopted on April 15, 2008 and effective on April 24, 2008 repealed section 146-16 in its entirety. The former section pertained to utility rate reduction program for qualified low-income elderly customers. See also the Code Comparative Table.

Sec. 146-17. Utility franchise fee refund program.

(a) *Established.* There is hereby established a utility franchise fee refund program in the City of Topeka. Subject to the terms and conditions established herein, eligible gas and electric utility ratepayers in the City of Topeka may receive a refund of gas and electric franchise fees paid by the ratepayer for property located within the city.

(b) *Eligibility.* Commencing for the tax year of 2006 only those ratepayers who fit the income, age, dependents and other requirements of the State of Kansas Homestead Property Tax Refund law, as amended from time to time, and actually receive a refund from the State of Kansas Homestead Property Tax Refund program, as provided in K.S.A. § 79-4501 et seq., (as amended), may receive franchise fee refunds as provided herein.

(c) *Refund procedure.* Franchise fee refunds shall be issued pursuant to the following procedure:

(1) Application for a franchise fee refund shall be processed if received by the city on or before November 5 for 2008 and on or before September 5 for each subsequent year for refunds of franchise fees paid for the preceding calendar year.

(2) Applications shall be made on a form approved by the City of Topeka Director of Administrative and Financial Services and shall be accompanied by the following documents and information:

a. Copy of the ratepayer's homestead property tax refund claim form or verification obtained by the City of Topeka Director of Administrative and Financial Services for the preceding calendar year for the residence for which gas and electric utility franchise fees have been paid.

b. Proof of payment or approval of a homestead property tax refund for the preceding calendar year for the residence for which gas and electric utility franchise fees have been paid.

c. Proof in a form acceptable to the City of Topeka Director of Administrative and Financial Services that franchise fees in the claimed amount have been paid by the ratepayer for the identified residence.

(3) Upon receipt of the required application, documents and information, the City of Topeka Director of Administrative and Financial Services shall, within 30 days, either issue a refund of the claimed franchise fees to the ratepayer or, if the refund application is rejected for any reason, notify the ratepayer of the reason for the rejection.

(4) A ratepayer whose application is rejected may appeal the rejection to the City of Topeka City Manager whose decision on the matter shall be deemed final and unappealable.

(Ord. No. 18584, § 1, 3-7-06; Ord. No. 19129, § 1, 7-15-08; Ord. No. 19153, § 1, 8-26-08)

Sec. 146-18. Water and wastewater utility rate refund program.

(a) *Established.* There is hereby established a Water and Wastewater Utility Rate Refund Program in the City of Topeka. Subject to the terms and conditions established herein, eligible city utility customers, defined as those individuals who receive residential water and/or wastewater utility services from the City of Topeka, may receive a refund of the increase in the minimum monthly rate for water and wastewater utility rates paid by the city utility customer to the City of Topeka. The water and wastewater utility rate refund shall be the amount the minimum monthly rate exceeds that in effect for water and wastewater on January 1, 2008.

(b) *Eligibility.* Commencing January 1, 2009, only those city utility customers inside or outside the corporate limits of the City of Topeka, who during the prior tax year fit the income and other requirements of the State of Kansas Homestead Property Tax Refund Law, as amended from time to time, and actually receive a refund from the State of Kansas homestead property tax refund program, as provided in K.S.A. 79-4501, et seq., as amended, may apply for water and wastewater utility refunds as provided herein.

(c) *Refund procedure.* Water and wastewater utility rate refunds shall be issued pursuant to the following procedure:

(1) Application for a water and wastewater utility rate refund shall be made by September 5 of 2009 and of each subsequent year for the preceding tax year for which the city utility customer paid water and wastewater utility rates to the City of Topeka.

(2) Applications shall be made on a form approved by the City of Topeka public works director and shall be accompanied by the following documents and information:

a. Proof that a homestead property tax refund claim form was filed and that a property tax refund was issued for the preceding calendar year.

b. Proof in a form acceptable to the public works director that the water and/or wastewater utility services were actually provided by the City of Topeka.

(3) Approval of application.

- a. Upon receipt of the required application, documents and information, the City of Topeka public works director, or his or her designee, shall, within approximately thirty (30) days, either issue a credit in the amount which the increase in the minimum monthly rate for water and wastewater utility rates exceeds those in effect on January 1, 2008, to the city utility customer, or may, in the sole discretion of the public works director, issue a check in the amount of the refund.
- b. In the event the city utility customer has any delinquent or unpaid charges, fees, administrative monetary penalties, or other charges to any department or division of the City of Topeka, the amount of the refund will be set off against such outstanding charge, fee, or penalty.

(4) Rejection of application.

- a. If the refund application is rejected for any reason, the public works director, or his or her designee, shall within that same thirty-day period notify the city utility customer in writing of the reason for the rejection.
- b. A city utility customer whose application is rejected may appeal the rejection to the City of Topeka City Manager whose decision on the matter shall be deemed final.

(d) Effective date. This ordinance shall be in effect until September 5, 2012.

(Ord. No. 19124, § 1, 7-8-08; Ord. No. 19209, § 1, 1-13-09)

Sec. 146-19. No free service or discrimination in rates.

No person nor any city department shall be allowed free use of water, nor shall there be discrimination among water, wastewater or stormwater customers of like classes as to rates; and rebates in rates shall never be allowed to any person or city department except as an inducement to prompt payment of water, wastewater or stormwater rates unless otherwise provided in this chapter.

(Ord. No. 19124, § 2, 7-8-08)

Secs. 146-20--146-25. Reserved.

ARTICLE II.

WATER SYSTEM*

* **Cross References:** Plumbing code, § 26-406 et seq.

DIVISION 1.

GENERALLY

Sec. 146-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer means a person receiving and paying for city water passing through an individual meter located in the service line by means of which the person receives such water.

Mains means the water pipes, including fittings and equipment, used to distribute water throughout the territory served by the city water system and to which the services of the ultimate water consumers are attached. Mains are owned by the city and are located on public property or on property over which the city has an easement.

Service means the pipes, including fittings and equipment, extending from the main to the connection with the house or yard plumbing, by means of which water is furnished to the customer.
(Code 1981, § 44-17)

Cross References: Definitions generally, § 1-2.

Sec. 146-27. Construction of facilities; sale of water; control by council.

The city may construct facilities, improvements or extensions within or without the city and may sell or dispose of water within or without the city. The city may prohibit or limit the resale of water the city sells. All water lines or facilities located in or on public rights-of-way, roads, streets, lands or easements and which carry water of the city-owned water plant shall be exclusively subject to regulation by the city council.

(Code 1981, § 44-18)

Sec. 146-28. Water superintendent.

(a) *Position created.* There is hereby created the position of water superintendent in the city. The water superintendent shall have charge of the waterworks and all property connected therewith, and shall manage and control the waterworks under the supervision of the director of public works.

(b) *Specific duties and responsibilities.*

- (1) The water superintendent is responsible for directing the total operation of the water utility; oversees the inspection and maintenance of facilities; hiring, firing and training of employees (union/nonunion); is involved in negotiating the union contract; and personally directs staff.
- (2) The water superintendent initiates and supervises the development of plans for new facilities at the treatment plant; authorizes installation of water mains; oversees preparation of plans and specifications and compilation of cost estimates; negotiates contract terms; and oversees plans for infrastructure replacement in the older sections of the city.
- (3) The water superintendent prepares the water and streetlighting division budgets and administers the funds; is responsible for the internal accounting systems, computerized water billing and collection systems; and oversees all purchases.
- (4) The water superintendent coordinates the waterworks operation with federal, state and other

regulatory agencies and is responsible for distribution of water to all qualified consumers including townships and rural water districts.

- (5) The water superintendent prepares/reviews all water division ordinances and/or resolutions prior to presentation to the director of public works; screens state legislative material which might affect a water utility; serves on committees and is active in various associations within the waterworks field.

(c) *Required knowledge, abilities and skills.* The water superintendent shall possess considerable knowledge of the principles and practices of water utility management; good knowledge of the principles of planning and financing of public water utilities; good knowledge of the principles and practices of the design, construction and operation of public water utilities; some knowledge of federal and state laws and agencies involved in the production, distribution and testing of water; and some knowledge of the principles and practices of administering and directing the activities of technical, skilled, unskilled and clerical personnel in a municipal utility. The water superintendent shall have the ability to apply concepts of management to departmental operation; to supervise and inspect construction, maintenance and repair work on water system facilities and equipment; to supervise the proper operation and maintenance of water facilities; to establish and maintain effective working relationships; and to prepare and interpret technical and general reports. The water superintendent shall have skill in the application of concepts of management to water utility operations; in providing leadership and direction to utility personnel; and in planning and implementing programs to satisfy the city's need for potable water.

(d) *Desired training and experience.* The water superintendent must have ten years' administrative experience in a water or similar utility. Administrative experience shall include, but not be limited to, budget control, personnel management and operational experience. Formal training is preferred in addition to experience in the area of public works, water resources or related fields.

(e) *Bond.* The water superintendent shall give a good and sufficient surety company bond to the city in the sum of \$5,000.00, conditioned for the faithful discharge of the duties of the office and to save the city harmless from all loss caused by neglect of duty or malfeasance in office.

(Code 1981, § 44-1; Ord. No. 18477, § 23, 7-12-05)

Sec. 146-29. Extension of mains; surcharges.

The council, before making any water main extension, may require contracts, bonds or other evidence of future use insuring to the city a reasonable additional income therefrom. The city may make a water rate surcharge to water consumers, within or without the city, served by any water line extension made by the city, or the city may make a cash connection charge to property owners based on a linear foot cost of such water line extension to reimburse the city for the cost of such extension. Such surcharge, if made, shall be for a specified period of years, and shall be calculated to return to the city no more than the cost of such extension, plus reasonable interest charges thereon.

(Code 1981, § 44-19)

State Law References: Similar provisions, K.S.A. 13-2409.

Sec. 146-30. Service outside city.

- (a) Services to property outside of the city may be connected to mains belonging to the city in

accordance with the provisions of City of Topeka Code § 146-37.

(b) The city may contract to furnish water to any distribution system outside the city limits and to operate and maintain such system. The negotiation of new water supply contracts or amendments to existing contracts shall be subject to the City's policy for the sale of water to rural water districts set forth in City of Topeka Resolution No. 7339, unless an exception thereto is specifically granted by the City Council. (Code 1981, § 44-20; Ord. No. 18820, § 1, 2-20-07)

Sec. 146-31. Depth of water pipes; placement near other pipes.

(a) All water pipes laid in public or private property shall be placed with the upper side of the pipe not less than 42 inches from the surface of the ground, not considering the thickness of a pavement.

(b) No underground water pipe shall parallel any other pipe or conduit closer than 18 inches. (Code 1981, § 44-21)

Sec. 146-32. Application for water service and connection fee.

Any person requesting city water service must first make application with the office of the water division by completing the application form provided by the water division. The person requesting city water service will be required to schedule a final inspection and water activation with the water division.

Each person requesting a new water service connection to the water distribution system shall pay all connection costs and other rates, charges, deposits and fees established by law. The connection fee shall be paid at the time of application for water service.

A new water service connection shall require the installation of a city water meter meeting specifications determined by the public works director or designee. Master water meters for wholesale customers shall also meet specifications determined by the public works director or designee.

Water connection fees shall be determined by the public works director or designee and reviewed and adjusted if necessary at least every five (5) years. Such fees shall be based on connection costs, the system's value, capacity and demand factors.

At the discretion of the chief administrative officer or city council, the water connection fees authorized in this section may be waived or modified for economic development projects which offer extraordinary benefits to the city. The chief administrative officer shall be authorized to grant a waiver of up to twenty-five percent (25%) of the fees. City council approval shall be required for any waiver in excess of twenty-five percent (25%).

(Code 1981, § 44-22; Ord. No. 18271, § 1, 6-22-04)

Sec. 146-33. Unlawful use of reservoir.

It shall be unlawful for any person to bathe in, place a boat on, or throw any substance into any reservoir, or place any foreign substance upon the grounds belonging to, connected with or under the control of the water system of the city.

(Code 1981, § 44-23)

Sec. 146-34. Turning off of water.

The city reserves the right at any time to shut off the water supply for repairs, extensions, nonpayment of charges, to prevent waste of water or for any other reason, and shall not be liable for any damage resulting from shutting off the water. When water service has been turned off by the water division, it shall be unlawful for any person to turn the water on or to connect the premises with water except when authorized in writing by the water division to do so. When water has been so turned on without authority, the water division shall turn off the water at the main, and service will not be restored until the cost of turning such water off and on has been paid by the consumer or the property owner.

(Code 1981, § 44-24)

Sec. 146-35. Work by licensed plumbers only.

No person shall install any water line or service or do any work permitted by the terms of this article in the city unless the person shall be a licensed plumber in the city and such person shall faithfully comply with all the terms and provisions of this article and all rules and regulations made pursuant thereto and will faithfully comply with all the terms and conditions of the city ordinances in reference to excavation and plumbing and all rules and regulations made in pursuance thereof and shall faithfully obey each and all the rules and regulations of the water division.

(Code 1981, § 44-25)

Sec. 146-36. Covering valve control box or manhole covers prohibited; cost of regrading or rebuilding.

(a) It shall be unlawful for any person to cover up or bury any existing valve control box or manhole cover with dirt, rock surfacing, bituminous surfacing, concrete or other material, or to obscure their location so that they cannot be found or are not accessible for water maintenance.

(b) The cost of regrading or rebuilding valve control boxes or manhole covers, including resurfacing of adjacent streets or alleys, shall be charged to the person responsible for the above acts.

(Code 1981, § 44-26)

Sec. 146-37. Water service to owner of real property outside city limits.

Requirements:

(a) Annexation.

(1) New or redeveloped parcels established by preliminary or final plat, lot, split or otherwise, after February 15, 2007, and for which the structure has not been connected to the city's water system that are contained within the current municipal services area established by the city council under Topeka City Code section 134-1 ("MSA") shall require annexation prior to water service being provided. Extension of water transmission mains shall conform to sizing, routing and other specifications as determined by the city engineer and water superintendent. The cost to design and construct the extension of

water mains necessary to serve these areas may be paid through the City of Topeka Water Fund depending on priority and if sufficient capital improvement funding is available. The developer may, depending on the proximity to existing water transmission mains, bear part, or all, of the cost of extending city water service to the development. Such extension costs would be in addition to the payment of connection fees and the cost of the construction of the water infrastructure within the development.

- (2) New or redeveloped parcels established by preliminary or final plat, lot, split or otherwise, after February 15, 2007, and for which the structure has not been connected to the city's water system outside of the city's corporate boundaries that are not contained within the MSA shall require annexation prior to service being provided. Extension of water transmission mains shall conform to sizing, routing and other specifications as determined by the city engineer and water superintendent. The total cost of extending the city's water service shall be borne by the developer without any participation by the city. Such extension costs would be in addition to the payment of connection fees and the cost of the construction of the water infrastructure within the development.

- (b) Platting. Further, before city water service is provided to an owner of real property outside city limits, the owner shall plat or cause to be platted the property to be served.

Exception: An owner of real property outside the city limits may be exempt from the platting requirement set forth above provided the planning director and public works director jointly find that all of the following conditions exist:

- (1) Land on which the principal structure is that of an existing detached single-family dwelling. That there are no other structures except permitted accessory structures, or uses for which water service is to be provided.
 - (2) As determined by the City of Topeka Public Works Department, adequate utility and drainage easements and/or street rights-of-way presently exist or can be secured by separate written instrument and recorded with the Shawnee County Register of Deeds for which the property owner consents.
 - (3) There is no existing or anticipated drainage problems related to the site or the development.
 - (4) Adequate public utilities and services otherwise service the site and the proposed development conform to the dimensional requirements of the zoning district.
 - (5) The existing or proposed improvement is compliant with the current adopted Shawnee County Wastewater Management Plan, or variances as may be granted by the applicable governing body as provided by said plan.
- (c) An owner of real property outside the city limits may be exempt from the annexation requirement set forth in subsections (a)(1) or (a)(2) above if the property owner consents to annexation of the real property to be served and at least one of the following conditions are

satisfied:

- (1) To eliminate an imminent threat to public health and safety as determined and/or ordered by the Kansas Department of Health and Environment or a similar regulatory agency, or a court of law.
- (2) To promote an economic development project as determined by the city council.
- (3) To avoid unnecessary hardship in situations not created by the actions of the applicant as determined by the city council.
- (4) The city is obligated to provide water service to the property owner by contract or other legally enforceable document.
- (5) The planning commission has prior to February 15, 2007, approved a preliminary or final plat which includes city water service.
- (6) The city has previously provided water service to the same parcel of real estate for which service has been requested. The reconnection of service shall be limited to the same size of service line as the previous service. Further, the reconnection shall be limited to the same number of lines or connections which previously existed.
- (7) To allow the city to provide water service to a facility owned and operated by a political and taxing subdivision with approval of the city council.

(Ord. No. 16804, § 1, 2-28-95; Ord. No. 17909, § 1, 11-5-02; Ord. No. 17995, § 1, 4-22-03; Ord. No. 18148, § 1, 12-16-03; Ord. No. 18399, § 1, 3-15-05; Ord. No. 18448, § 1, 6-7-05; Ord. No. 18820, § 2, 2-20-07)

Sec. 146-38. Water, water pollution control, and stormwater utility.

(a) The City Council of the City of Topeka, Kansas hereby authorizes the combination of the city's water and WPC utility and the city's stormwater utility into a single utility to be known as the water, water pollution control, and stormwater utility of the City of Topeka, Kansas.

(b) The city manager is hereby authorized to take such further actions as may be necessary to effectuate the creation of such water, water pollution control, and stormwater utility herein authorized and the mayor and city clerk are hereby authorized to execute any and all documents necessary to effectuate such purpose.

(c) The rates, fees, and charges of the water division, water pollution control division, and stormwater division of the water, water pollution control, and stormwater utility shall be set by the governing body to provide for the payment of the costs of operating and maintaining such divisions of the water, water pollution control, and stormwater utility and paying the principal of and interest on all bonds and other obligations of the water, water pollution control, and stormwater utility in order that such rates, fees, and charges of the water division, water pollution control division, and/or stormwater division of the water, water pollution control, and stormwater utility not be set or otherwise established so that the rates, fees, or charges of one such division subsidize the other.

(d) The revenues of the water, water pollution control, and stormwater utility are hereby pledged to the payment of any revenue bonds or other obligations issued or incurred by the city in connection with the city's water, water pollution control, and stormwater utility.

(Ord. No. 17272, §§ 1--4, 6-9-98; Ord. No. 17985, §§ 1, 2, 3-25-03; Ord. No. 18477, § 24, 7-12-05)

Editors Note: Ord. No. 17272, §§ 1--4, adopted June 9, 1998, did not specifically amend the Code; hence, inclusion herein as § 146-38 was at the discretion of the editor.

Secs. 146-39--146-45. Reserved.

DIVISION 2.

DEPOSIT*

* **Cross References:** Petty cash fund for water deposits, § 2-546.

Sec. 146-46. Required.

Any person making application for water service shall complete an application on such forms as are provided by the water division, provide picture identification and social security number. The person making application also shall indicate any other person authorized to transact business on the account. Additionally, any person making application for water service shall pay a security deposit.

Security deposits are required as follows:

(a)	\$15.00	Each unit-Apartment Building/Condo
	\$25.00	Single-family Residence
	\$35.00	Business with no extra water equipment usage
	\$50.00	Duplex or 2 residences on 1 service Master Deposit (Contractor)
	\$100.00	Business with regular 5/8" or 1" service
	\$150.00	Business/Commercial 1 1/2" service
	\$200.00	Business/Commercial 2" service
	\$300.00	Business/Commercial 3" service

The water division shall annually review payment records of customers who have a security deposit on file with the water division. If the water superintendent determines that the customer does not pose a credit risk, then the security deposit with any accrued interest shall be returned to the customer by way of a credit posting against that customer's account.

For purposes of evaluating credit risk, the superintendent shall consider the following:

- (1) Customers who have established a record of delinquent or nonpayment of amounts due the water division in two successive billing periods or in three billing periods in an interval of 12 months.
- (2) Customers whose checks have been returned by a lending institution to the water division in two successive billing periods or in three billing periods in an interval of 12 months.
- (3) Commercial customers in initial business ventures expected to be substantial consumers of water and having no previous history or acceptable credit standing until a record of prompt payment is established.

Customers who have had their security deposits returned shall not be required to submit a second deposit in the event of a new service account for the same customer class.
(Code 1981, § 44-52; Ord. No. 17246, § 1, 3-17-98)

Sec. 146-47. Fund.

The water superintendent shall keep a record of all deposits made with the water superintendent, together with the name of the depositor and the amount deposited, and such deposit shall be deposited by the superintendent with the city treasurer in a fund to be known as water consumer's deposits; and shall pay to the depositor interest at the rate determined by the state corporation commission, such interest to be credited on January 1 succeeding such deposit and on January 1 thereafter and shall be payable at the water division in cash on demand of the depositor or credited on the water bill. Interest credited to the water consumer's deposits shall be charged to the water utility fund. Any interest credited shall be subject to call and payment at any time, but shall not draw interest. Interest earned and received by the city on invested water consumer's deposits shall be credited to the water utility fund. The fund shall be deposited by the city treasurer in a bank or trust company and upon discontinuance of service the deposit shall be returned to the consumer together with unpaid interest on the deposit at the rate of five percent per annum, provided all bills for water, repairs or other service rendered shall have been paid by the consumer. Should the fund accumulate in a sufficient amount for investment, it shall be invested by the city treasurer in bonds of the city or in such other securities as prescribed by K.S.A. 12-822 and approved by the council.
(Code 1981, § 44-53)

State Law References: Mandate for this section, K.S.A. 12-822.

Sec. 146-48. Default.

(a) Any water consumer who shall have made a deposit as provided in this division and who shall refuse, neglect or for any other reason fail to pay a bill of the water division for water furnished, repairs made or other service rendered, shall forfeit any right to the return of the deposit and the accrued interest thereon, to the extent of the unpaid bill.

(b) When default shall have been made, as provided in subsection (a), the water division shall render an approved voucher, payable to the general water fund, and against the water consumer's deposit fund, for the amount of money due and unpaid, to the extent of the unpaid bill but not in excess of the deposit made by such water consumer and the interest accrued thereon, and any unappropriated portion of the water consumer's deposits shall remain without interest in the water consumer's deposit fund and held subject to the consumer's demand for payment of the residue thereof. The water division shall notify the consumer, at the consumer's last

known post office address, of the amount of the deposit appropriated to the payment of the bill and that the residue will be paid to the consumer upon demand and surrender of the original deposit receipt.
(Code 1981, § 44-54)

Sec. 146-49. Transfer to water utility fund.

(a) Water consumer deposits received from consumers as security for the payment of water services which remain uncollected for a period of three years or more after the discontinuance of service to the consumer may be transferred to the water utility fund of the water division in the following manner:

- (1) Notice shall be published once each week for two consecutive weeks in the official city newspaper, which notice shall state the name in which the deposit was made, the last address at which service was rendered to such person, and the amount of the deposit remaining after the payment of all bills or charges for service rendered.
- (2) The notice shall further state that unless a person claiming an interest in such deposit shall appear and file claim therefor within 60 days after the last publication, the deposit will be transferred to the water utility fund.

(b) Unless the person entitled thereto shall, within the time stated in the notice, make claim therefor, the deposit shall be transferred to the water utility fund and no action for the recovery of any such deposit may be brought unless commenced within five years after the deposit has been transferred.

(c) If there shall be an overpayment of an account and the service has been discontinued and the consumer cannot be located, and no claim is made for refund of overpayment within three years or more after the discontinuance of service to the consumer, such overpayments shall be treated in the same manner as unclaimed water consumer deposits as set forth in subsection (a).
(Code 1981, § 44-55)

Sec. 146-50. Refund upon discontinuation of service.

Any water service customer who desires to discontinue water service and who has a security deposit on file with the water division with no outstanding balance may have the security deposit with accrued interest applied against the final bill or returned to the customer. The water service customer shall notify the water division of his/her choice at the time of final billing. If the water service customer does not notify the water division of his/her choice, then the water division will send a refund with accrued interest to the water service customer.
(Code 1981, § 44-56; Ord. No. 17246, § 2, 3-17-98)

Secs. 146-51--146-60. Reserved.

DIVISION 3.

FLUORIDATION

Sec. 146-61. Equipment authorized.

The water division is hereby directed and authorized to install and operate equipment which will introduce sufficient fluoride compound to raise the fluoride concentration in the finished water to one part of fluoride for every million parts of water being distributed to the water supply system of the city, or such concentration as is ordered from time to time by the state board of health.
(Code 1981, § 44-38)

Sec. 146-62. Operation under supervision of water division.

The water division shall operate such fluoride and make such periodic inspections as in its judgment may be deemed necessary to safeguard the health and welfare of the citizens of the city, and the water division is hereby made responsible for the expedient, safe, proper and efficient operation of such fluoridation.
(Code 1981, § 44-39; Ord. No. 17041, § 1, 12-10-96)

Sec. 146-63. Operation expense from water utility fund.

Operating funds for fluoridation of the city water supply system shall be provided from the water utility fund.
(Code 1981, § 44-40)

Secs. 146-64--146-75. Reserved.

DIVISION 4.

WATER SERVICE LINE*

* **Editors Note:** Ord. No. 18334, § 1, adopted Nov. 9, 2004, amended the title of Ch. 146, Art. II, Div. 4 to read as herein set out. Formerly, said division was entitled "service pipes".

Sec. 146-76. Definitions.

The following words and phrases, when used herein, shall have the meanings respectively ascribed to them:

Water service line means only the section of waterline that connects to the water main and extends to the water meter for that property. Water service line does not include any section of waterline that extends from the water meter to the structure, premises or yard hydrant being served or any portion of waterline on private property.

(Code 1981, § 44-83; Ord. No. 18334, § 2, 11-9-04)

Sec. 146-77. Applications and standards.

The water division or a licensed plumber shall install all water service lines. Prior to installation, application for a water service line installation will be made to the City of Topeka Public Works Department. An application will not be processed unless and until all outstanding debts, if any, due to the City of Topeka combined water, wastewater and stormwater utility are paid in full, whether such obligation is for unpaid

accounts, charges, services or materials. All applicable permits must be posted at the job site before a service connection will be made. All water service line installations shall be in accordance with all applicable provisions of the City of Topeka Standard Technical Specifications, maintained by the engineering division and water service installation standards maintained by the water division.
(Code 1981, § 44-84; Ord. No. 18334, § 3, 11-9-04)

Sec. 146-78. Size.

The size of each water service line must be approved by the water division, but no new water service line shall be installed of less than one (1) inch in diameter. Any change in the size of the existing water service line shall be at the expense of the property owner.
(Code 1981, § 44-85; Ord. No. 18334, § 4, 11-9-04)

Sec. 146-79. Specifications for materials.

All materials used for water service lines and connections to the water meters or the City's water mains shall be in accordance with the City of Topeka Standard Technical Specifications maintained by the engineering division.
(Code 1981, § 44-86; Ord. No. 18334, § 5, 11-9-04)

Sec. 146-80. Installation, alignment, location and inspection.

The alignment and location of all water service installations or relocation shall be in accordance with water service installation standards maintained by the water division and will be subject to inspection and acceptance by the water division before water service will be activated. Property owner will be responsible for all charges, services, and materials for water service installation or relocation.
(Code 1981, § 44-87; Ord. No. 18334, § 6, 11-9-04)

Sec. 146-81. Water service line termination/abandonment/replacement.

All water service lines connected to the water main are considered active, unless terminated by one of the following means:

- a. A written request by the customer;
- b. If the line is abandoned by the customer; or
- c. If a replacement water service line is requested by the customer.

The water division will terminate the water service by disconnecting the water service line from the water main. There will be no charge to the customer for termination of water service.

A water service will be deemed abandoned if there is no water flow through the water meter or water service line for a period of twelve (12) months.

If a water service is considered abandoned, the water division will attempt to contact the property

owner at least five (5) business days prior to termination of water service by mailing a notice of termination to the customer's address maintained by the water division or by posting a notice on the property of the pending service termination.

(Code 1981, § 44-88; Ord. No. 18334, § 7, 11-9-04)

Sec. 146-82. Repair and responsibilities of property owner and city.

a. The waterlines from the water meter to the structure, premises, or yard hydrant being served or any portion of waterline on private property shall be the responsibility of the property owner and shall be constructed, maintained, repaired or replaced at the sole cost of the property owner. All installation or repair work shall be done as required by the uniform plumbing code and other appropriate ordinances.

b. All water service lines from the water main to the water meter located in the city's right-of-way or city or public utility easement shall be the responsibility of the water division and shall be repaired only by the water division.

c. All waterlines from the water main to the water meter which are not located in the city's right-of-way or city or public utility easement shall be the responsibility of the property owner and shall be repaired or replaced at the sole cost of the property owner. All installation or repair work shall be done as required by the uniform plumbing code and other appropriate ordinances.

d. Property owner shall be responsible for any expenses incurred by the water division for the repair to a water service line, including, but not limited to, any materials, service, or labor, including the repair to public property, streets, alleys or other public utilities caused by the property owner's negligent or intentional actions.

(Code 1981, § 44-89; Ord. No. 18334, § 8, 11-9-04)

Sec. 146-83. Fire protection lines.

Services for fire protection shall be fitted with such fixtures only as are needed for fire protection, and shall be installed entirely separate from all lines used for other purposes, and be kept entirely separate from all other lines, except as provided in the Uniform Code For Building Conservation (U.C.B.C.). Any line which shall be installed as a fire protection line, either sprinkler systems or otherwise, must be installed between the main and meter, and all valves or openings must be sealed by the water division and the seals shall not be broken, except in case of fire. Immediate notice of breaking of any seal must be given to the water division. All fire lines and appurtenances shall be considered to be private fire service lines and shall be the responsibility of the property owner. It shall be the duty and responsibility of the property owner to keep the fire line in good repair. In the event the property owner fails to maintain the fire line, then the city may undertake the needed repair and assess the cost of repair to the real property serviced by the fire line.

(Code 1981, § 44-90; Ord. No. 16813, § 1, 3-28-95; Ord. No. 18505, § 1, 9-13-05)

Secs. 146-84--146-94. Reserved.

DIVISION 5.

METERS

Sec. 146-95. Definitions.

The following words and phrases, when used herein, shall have the meanings respectively ascribed to them:

Meter shall mean a device, connected to a water main, used to measure and record the rate of water flow.

Hydrant meter shall mean the meter and appurtenances connected to a fire hydrant for the temporary use of water.

(Ord. No. 18650, § 1, 6-6-06)

Sec. 146-96. Installation.

The council is hereby authorized to measure all water furnished by meters and meters shall be installed at the expense of the property owner.

(Code 1981, § 44-102)

Sec. 146-97. Designation of size.

Before any developer or owner may install a disc meter 1 1/2 inches through two inches in size, or a compound or current type meter three inches or larger, he shall be required to supply the water division with the anticipated maximum hour use and average consumption of the meter, so that the appropriate size of meter can be designated to operate at 20 percent of safe maximum operating capacity for disc type meter and 33 1/3 percent of safe maximum operating capacity for a compound or current type meter.

(Code 1981, § 44-103)

Sec. 146-98. Reserved.

Editors Note: Ord. No. 18650, § 2, adopted June 6, 2006, repealed § 146-98 in its entirety. Formerly, said section pertained to rental of meters as enacted by Code 1981, § 44-104.

Sec. 146-99. Purchase.

Meters may be purchased from the water division at cost.

(Code 1981, § 44-105)

Sec. 146-100. Testing, approval.

No meter shall be installed without first being tested and approved by the water division. All meters on service pipes larger than one inch in diameter shall be approved as to size and type of setting by the water division.

(Code 1981, § 44-106)

Sec. 146-101. Repair.

All meters measuring water furnished to consumers shall be repaired by the water division provided the

meter is installed in an approved meter box or application for installation of the meter box is signed by the property owner or otherwise, and the cost of repairing shall be charged against the owner. All meters damaged by hot water or freezing through negligence shall be charged to the property owner.
(Code 1981, § 44-107)

Sec. 146-102. Tampering.

No person shall make any repairs, reset, disconnect or make any change in meters without written permission from the water division, and no meter shall be reset without first being tested by the water division. All meters must be sealed when set.
(Code 1981, § 44-108)

Sec. 146-103. Replacement.

System-wide replacement of water meters to incorporate new technology and improve the accuracy of meter readings shall be done at the expense of the water division. The new meters shall be considered property of the water division. The cost of replacing water meters which become unrepairable due to discontinuance of repair parts or which are worn beyond repair by usage shall be replaced at the water division's expense.
(Code 1981, § 44-109; Ord. No. 16839, § 1, 6-13-95)

Sec. 146-104. Reserved.

Editors Note: Ord. No. 18650, § 3, adopted June 6, 2006, repealed § 146-104 in its entirety. Formerly, said section pertained to the definition of flushing meter as enacted by Ord. No. 17155, § 1, adopted Aug. 12, 1997.

Sec. 146-105. Hydrant meter--Permit required.

A hydrant meter permit is hereby required before installation of a hydrant meter. The permit shall be issued by the water division after the following conditions are met by the permit applicant:

- (1) Submit completed hydrant meter permit application;
- (2) Provide payment in full of the applicable deposits and fees, and
- (3) Provide payment in full of any delinquent amounts due to water division for customer's account.
(Ord. No. 17155, § 2, 8-12-97; Ord. No. 18650, § 4, 6-6-06)

Sec. 146-106. Same--Deposit required.

Hydrant meter deposit amounts shall be established by the water superintendent, as approved by the public works director, and set forth on a schedule maintained by the water superintendent. Such fees shall be based upon the size of the hydrant meter, and cost for the water division to replace the hydrant meter and hydrant wrench.

A refundable deposit shall be required and held without interest. Upon request from customer, deposit shall be refunded after hydrant meter is returned to water division and any cost of damage to meter, meter appurtenances and delinquent amounts due to water division for customer's account have been paid in full.
(Ord. No. 17155, § 3, 8-12-97; Ord. No. 18650, § 5, 6-6-06)

Sec. 146-107. Same--Fees.

Hydrant meter rental fee amounts shall be established by the water superintendent, as approved by the public works director, and set forth on a schedule maintained by the water superintendent. Such fees shall be based on operating costs for issuing and maintaining hydrant meters.

Customers shall be charged rental fees on a monthly basis, with a minimum charge of one month's rental. Under no circumstances shall fees be prorated.

Customers shall be assessed, when applicable, administrative fees such as: Annual testing fee, manual meter reading and consumption estimation fee, and delinquent account fee.

Administrative fee amounts shall be established by the water superintendent, as approved by the public works director, and set forth on a schedule maintained by the water superintendent. Such fees shall be based on operating costs for testing and billing for hydrant meters and may be waived when customers comply with testing and billing requirements.

(Ord. No. 17155, § 4, 8-12-97; Ord. No. 18650, § 6, 6-6-06)

Secs. 146-108--146-115. Reserved.

DIVISION 6.

FIRE HYDRANTS

Sec. 146-116. Installation.

It shall be unlawful for any person to install, or cause to be installed, on public or private property, any fire hydrant for use other than that type and style presently approved by the water division.

(Code 1981, § 44-121)

Sec. 146-117. Obstruction.

No person shall obstruct, in any way, easy accessibility of a fire hydrant by placing material of any kind, fences or temporary structures, trenches or holes, making it dangerous to firefighters in connecting to the fire hydrant, or impair the accessibility of a fire hydrant in any way.

(Code 1981, § 44-122)

Sec. 146-118. Reserved.

Editors Note: Ord. No. 18650, § 7, adopted June 6, 2006, repealed § 146-118 in its entirety. Formerly, said section pertained to opening of hydrants as enacted by Code 1981, § 44-123.

Sec. 146-119. Use by city departments and divisions.

Water used by all city departments and divisions from a fire hydrant shall be measured by a method acceptable to the water superintendent. The fire department shall submit a report monthly to the water division stating estimated water usage for firefighting. All other city divisions or departments shall report to the water

division the amount of water used by their department or division.
(Code 1981, § 44-124; Ord. No. 18650, § 8, 6-6-06)

Sec. 146-120. Changing location.

Any change in the location of a fire hydrant must meet the approval of the fire chief, the city engineer and the water division. The cost of moving a hydrant shall be paid by the party desiring the change.
(Code 1981, § 44-125)

Sec. 146-121. Altering color.

It shall be unlawful for any person to alter the color of any fire hydrant in the city.
(Code 1981, § 44-126)

Sec. 146-122. Damage to.

Any person who shall, in any way, damage or impair a fire hydrant shall immediately notify the water division, giving his name and address and the exact location of the fire hydrant impaired.
(Code 1981, § 44-127; Ord. No. 17246, § 3, 3-17-98)

Sec. 146-123. Illegal use of a fire hydrant.

- (a) It shall be unlawful for any person to use a fire hydrant without a city-approved hydrant meter. Provided; however, this subsection shall not apply to authorized city employees' use of a fire hydrant.
- (b) It shall be unlawful for any person, other than authorized city fire department employees, to use any fire hydrant identified as a "firefighting use only" hydrant.
- (c) Penalty. Any person violating this section may be punished by;
 - (1) Fine of not more than \$499.00; and/or
 - (2) Imprisonment in jail for not more than one hundred seventy-nine (179) days.
(Ord. No. 17246, § 4, 3-17-98; Ord. No. 18650, § 9, 6-6-06)

Secs. 146-124--146-135. Reserved.

DIVISION 7.

RATES AND CHARGES

Sec. 146-136. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Emergency service working hours means all hours between 5:00 p.m. and 8:00 a.m. the next day, Monday through Saturday and all day Sunday.

Nonservice address means an address outside the routed daily service area.

Normal office working hours means all hours the water division offices are open for public business, as established by the water superintendent and approved by the public works director. 8:00 a.m. to 5:00 p.m., Monday through Friday.

(Code 1981, § 44-139; Ord. No. 17246, § 5, 3-17-98; Ord. No. 18482, § 1, 7-26-05)

Cross References: Definitions generally, § 1-2.

Sec. 146-137. Rendering of bills.

The water division shall render bills based on a monthly or bimonthly reading and a monthly rate, either monthly or bimonthly, to all water consumers of the city for the water consumed, such bill to be mailed or delivered by the water division not later than ten days following the date of the reading. All meters shall be read monthly or bimonthly, or as near monthly or bimonthly as practicable. Meter readings are not required to be taken unless the water has been turned on at least 15 days, but after 15 days the monthly rates will apply. On any service for which, for any reason, a monthly reading was not taken, a period of 45 days to 74 days may be considered two months, a period of 75 days to 104 days may be considered three months, etc. Final bills are computed on a monthly basis, regardless of the number of days since the previous reading. Where it is impossible to read a meter, where a meter has ceased to register, or where a meter is out of order and is, without doubt, registering much less than actual consumption, based on consumption of the previous month or the same month of the previous year, the quantity may be estimated. The water division does not assume the responsibility for speedy and safe delivery of, or failure to receive, the bill; a duplicate may be obtained by calling in person at the office, or by telephone.

(Code 1981, § 44-140)

Sec. 146-138. Reserved.

Editors Note: Ord. No. 18124, § 1, adopted Nov. 18, 2003, repealed § 146-138 in its entirety. Formerly, said section pertained to water rates as enacted by Ord. No. 16457, § 1(44-141), adopted May 26, 1992; as amended.

Sec. 146-139. Reserved.

Editors Note: Ord. No. 18124, § 2, adopted Nov. 18, 2003, repealed § 146-139 in its entirety. Formerly, said section pertained to surcharge rates as enacted by Ord. No. 16457, § 2(44-142), 5-26-92; as amended.

Sec. 146-140. Reserved.

Editors Note: Ord. No. 18124, § 3, adopted Nov. 18, 2003, repealed § 146-140 in its entirety. Formerly, said section pertained to fire hydrant charges as enacted by Ord. No. 16457, § 3(44-153), 5-26-92; as amended.

Sec. 146-141. Water protection fee.

(a) *Established; amount.* In addition to all retail (exempting wholesale) water rates and fees charged by the city water division, there shall also be charged a water protection fee in the amount of \$0.03 per 1,000 gallons of water and a public water supply fee in the amount of \$0.002 per 1,000 gallons of water sold.

(b) *Collection.* The water protection fee and public water supply fee shall be collected monthly by the water division. The water division shall in turn transmit to the state department of revenue, on a quarterly

basis, all water protection fees and public water supply fees collected. Fees which are due and owing and uncollected shall be paid for by the water division and the water division shall be reimbursed upon collection of the outstanding balance.

(Ord. No. 16567, § 1(44-154), 3-23-93)

Sec. 146-142. Computation of combined utility bill.

Computation of water and sewer bills shall be based on volume expressed as units of one thousand (1,000) US gallons.

(Code 1981, § 44-145; Ord. No. 18124, § 13, 11-18-03; Ord. No. 19074, § 7, 4-15-08, eff. 4-24-08)

Sec. 146-143. Application to contracts.

The conditions and rates set out in this division shall apply to all persons presently receiving water or services under valid and existing contracts or ordinances unless the contract or ordinances prohibits, by its terms, the adjustment of rates as provided in this division.

(Code 1981, § 44-146)

Sec. 146-144. Adjustment of rates.

This division applies only to the adjustment of rates for water used and does not nullify, adjust or terminate any other charges which are being charged to water consumers for the payment of bonds, service fees and any other comparable charges.

(Code 1981, § 44-147)

Sec. 146-145. Rates for water only.

The rates set out in this division are the rates established for the payment for water. Surcharges shall be added by township or other legal entities for the payment of outstanding bonds, principal and interest, as required by bond covenants.

(Code 1981, § 44-148; Ord. No. 18650, § 10, 6-6-06)

Sec. 146-146. Rates for water consumed from fire hydrants.

All water consumed from a fire hydrant located within the city shall be billed at the established inside city commercial rate. All water consumed from a fire hydrant located outside the city shall be billed at the established outside city commercial rate. The fire department shall not be billed for any water consumed from a fire hydrant for firefighting or fire training purposes.

(Code 1981, § 44-149; Ord. No. 18650, § 11, 6-6-06)

Sec. 146-147. Reserved.

Editors Note: Ord. No. 19124, § 3, adopted on July 8, 2008, repealed section 146-147 in its entirety. The former section pertained to no free service or discrimination in rates. The users attention is directed to § 146-19 for similar provisions. See also the Code Comparative Table.

Sec. 146-148. Failure to pay; delinquent service fee.

(a) If a water utility bill remains unpaid for 20 days after such bill has been mailed or delivered, water service may be discontinued and shut off at the discretion of the water superintendent.

(b) Water service shall not be discontinued or shut off until the consumer has been mailed a notice of five days in which to make full settlement or otherwise resolve the unpaid bill, except in case of fraud or leaving the city without notice. If consumers permit their water utility bill to remain unpaid for 40 days following date of mailing or delivery, the water division may, at its discretion, require deposits to be posted, or require present deposits to be increased to an amount determined by the water superintendent as sufficient to secure the city against loss.

(c) A delinquent service fee of \$20.00 per service disconnection shall be charged to all water customers due to the water being turned off for delinquent water utility bills. In all cases where the water has been turned off for delinquency, the entire amount of the bill, plus a delinquent service fee, shall be paid at the water division during normal office working hours before water will be restored.
(Code 1981, § 44-151; Ord. No. 17246, § 6, 3-17-98; Ord. No. 18482, § 2, 7-26-05)

Sec. 146-149. Reserved.

Editors Note: Ord. No. 17246, § 7, adopted March 17, 1998, repealed § 146-149, which pertained to collection and delinquent service fees. See the Code Comparative Table.

Sec. 146-150. Restoration of water service after payment of delinquency.

Restoration of water service for delinquent water bills which are paid by 5:00 p.m. shall be completed the same day payment is received.
(Code 1981, § 44-153; Ord. No. 17246, § 8, 3-17-98)

Sec. 146-151. Penalties for illegal water service.

When water service has been discontinued for delinquent water bills, water service shall remain discontinued until restored by authorized water division personnel. If water service is restored by unauthorized personnel an additional \$50.00 service fee shall be assessed to the service customer's account and the meter may be pulled.

In such cases where the water service is connected illegally through the use of an unauthorized meter, jumper, removal of meter register, or other means, the unauthorized services will be plated or crimped and the service customer will be charged a \$100.00 service fee and will be charged for all parts and labor necessary to restore the water service. All service fees will be assessed to the water utility bill. The water utility bill plus any service fees will be required to be paid in full before water service can be restored.

The water division shall commence work to restore service after full payment of the water utility bill and any service fees are paid on the same day payment is received and shall complete restoration of service within two working days.
(Ord. No. 17246, § 9, 3-17-98)

Secs. 146-152--146-160. Reserved.

DIVISION 8.

WATER CONSERVATION

Sec. 146-161. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Baseline consumption means an amount that is 1.25 times the average of the consumer's monthly water bills for the months of the previous November, December, January and February.

Consumer means any person using water for any purpose from the city's water distribution system and for which either a regular charge is made or a cash charge is made at the site of delivery.

Waste of water means and includes, but is not limited to:

- (1) Permitting water to escape down a gutter, ditch, or other surface drain.
- (2) The use of water for any purpose, including landscape irrigation, which consumes or for which is applied substantial amounts of excess water beyond the reasonable amount required by the use, whether such excess water remains on the site, evaporates, percolates underground, goes into the sewer system, or is allowed to run into the gutter or street. Every water consumer is deemed to have under his control at all times the water lines and facilities, other than water utility facilities, through which water is being supplied and used to his premises, and to know the manner and extent of his water use and excess runoff.
- (3) The excessive use, loss or escape of water through breaks, leaks or malfunctions in the water consumer's plumbing for any period of time after such escape of water should reasonably have been discovered and corrected. It shall be presumed that a period of 48 hours after the water user discovers such break, leak or malfunction or receives notice from the city of such condition, whichever occurs first, is a reasonable time within which to correct such condition.
- (4) Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas except to alleviate immediate fire hazards.

Water means water available to the city for treatment by virtue of its water rights or any treated water introduced by the city into its water distribution system.

(Code 1981, § 44-158)

Cross References: Definitions generally, § 1-2.

Sec. 146-162. Plan established.

There is hereby established a city water conservation plan.

(Code 1981, § 44-157)

Sec. 146-163. Declaration of policy.

It is hereby declared that it is in the best interest and general welfare of the city that the water resources available to the city are utilized to the maximum extent possible and that the waste, unnecessary or unreasonable use, or unreasonable methods of use of water be prevented. Conservation of such water resources is to be extended with a view to the reasonable and beneficial use thereof in the interests of the people of the city and for the public welfare.
(Code 1981, § 44-159)

Sec. 146-164. Authorization.

The director of the public works department (referred to in this division as the "director"), or the assistant public works director (referred to in this division as the "assistant director") in the absence of the director, upon the recommendation of the superintendent of the water division, is hereby authorized and directed to implement the applicable provisions of this division upon the determination that such implementation is necessary to protect the public welfare and safety.
(Code 1981, § 44-160)

Sec. 146-165. Application.

The provisions of this division shall apply to all persons, customers and property served by the city water division.
(Code 1981, § 44-161)

Sec. 146-166. Wholesale water districts.

Wholesale water districts with contracts to purchase water from the city shall be subject to the terms and conditions of this division. Each wholesale water district shall be required to adopt its own water conservation plan which must provide for the same reductions in water usage as the water conservation plan set out in this division. Should a wholesale water district neglect to adopt its own water conservation plan, the terms and conditions of the city water conservation plan shall apply to the consumers of that wholesale water district.
(Code 1981, § 44-162)

Sec. 146-167. Enforcement; penalty for violations.

(a) *Authority.* The superintendent of the water division and other employees of the water division are authorized to enforce all provisions of this division.

(b) *First violation.* Any consumer who violates any provisions of this division shall be issued a written notice of the violation. The written notice shall be affixed to the property where the violation occurred and mailed to the consumer of record and to any other person known to the city who is responsible for the violation and its corrections. Such notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the city determines is reasonable under the circumstances. Failure to receive such notice shall not invalidate further actions by the city. If the order is not complied with, the city may terminate water service to the customer. If water service is terminated, a charge for disconnection, reconnection and restoration of service shall be made. The charge will be for the actual costs of terminating and restoring service plus the appropriate amount listed below:

- (1) Residential: Fifty dollars.
- (2) Commercial/industrial: An amount equal to 100 percent of the average monthly water bills for the previous 12 months.

(c) *Second and subsequent violations.* In the event of additional violations of this division, the city will terminate water service to the consumer and a charge for terminating and restoring service will be made. The charge will be for the actual costs of terminating and restoring the service, plus:

- (1) For second violations, the highest of \$200.00 or an amount equal to 200 percent of the average monthly water bills for the previous 12 months.
- (2) For any additional violations after the second violation, the highest of \$300.00 or an amount equal to 300 percent of the average monthly water bills for the previous 12 months.

Any customer who has service disconnected pursuant to this section may appeal the cost of terminating and restoring service to the council of the city.

(d) *Code violation.* Any violation of the water conservation plan shall also be considered a violation of this Code and may be punishable by proceedings in municipal court. Each day's violation shall constitute a separate offense and shall be punished accordingly.

(Code 1981, § 44-166)

Sec. 146-168. Declaration of water emergency.

(a) Whenever a shortage of water needed for essential uses exists because of climatic conditions or because of other emergencies which threaten the order, health, safety and general welfare of the public, the director may declare and proclaim a water emergency. Such an emergency shall be deemed to continue until it is declared by the director to have ended.

(b) In the event of a proclamation of water emergency, the director shall forthwith cause appropriate notice thereof to be published in the newspaper and broadcast by all other available media.

(Code 1981, § 44-163)

Sec. 146-169. Prohibitions; guidelines for implementation of stages.

No consumer shall knowingly make, cause, use or permit the use of water from the city for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner which is contrary to any provision of the water conservation ordinance or in an amount in excess of that use permitted by the conservation stage in effect pursuant to the provisions of the water conservation ordinance. The director, in conjunction with the superintendent of the water division, shall promulgate guidelines which set forth criteria for determining when a particular conservation stage is to be implemented or terminated. Such guidelines shall be updated as the conditions of the utility system change.

(Code 1981, § 44-165)

Sec. 146-170. Water conservation stages--Stage 1, Voluntary conservation measures.

When climatic conditions develop that indicate a water emergency may be declared, or whenever other emergencies that threaten the order, health, safety and general welfare of the public occur, the director is authorized to request all consumers to:

- (1) Voluntarily implement even/odd day watering for exterior use.
- (2) Employ voluntary water conservation measures to limit or eliminate nonessential water uses including, but not limited to, the following:
 - a. Sprinkling of water on lawns, shrubs or trees.
 - b. Washing of automobiles, trucks and other vehicles.
 - c. Use of water in swimming pools, fountains and evaporative air conditioning systems.
 - d. Waste of water.

(Code 1981, § 44-164(a))

Sec. 146-171. Same--Stage 2, Mandatory conservation measures--Water alert.

(a) *Generally.* Upon the declaration of a water supply emergency as provided for in this division, the director is authorized to implement certain mandatory water conservation measures including, but not limited to, the following:

- (1) Irrigation utilizing individual sprinklers or sprinkler systems of lawns, gardens, landscaped areas, trees, shrubs or other plants is prohibited except on a designated day which shall be on alternate days. Consumers with evennumbered addresses shall irrigate on evennumbered days. Those with oddnumbered addresses shall irrigate on oddnumbered days. The indicated days for irrigation are referred to in this division as designated irrigation days. Provided, however, irrigation of lawns, gardens, landscaped areas, trees, shrubs, or other plants is permitted at any time if:
 - a. A handheld hose is used; or
 - b. A handheld faucet filled bucket of five gallons or less is used; and
 - c. No waste of water occurs.

Exception: Commercial nurseries, commercial sod farmers, and similarly situated commercial establishments are exempt from stage 2 irrigation restrictions; provided however, that all such commercial establishments will be required to curtail all nonessential water use and eliminate waste of water.

- (2) The use of water for irrigation of golf tee areas and golf greens is allowed only during the hours from sunset to sunrise. Syringing of golf course greens is allowed to the extent necessary to keep the greens from becoming stressed. The irrigation of golf course fairways is allowed only on

alternate days during the hours from sunset to sunrise. Provided, however, that irrigation of golf courses utilizing treated wastewater, reusing water, or utilizing raw water shall not be subject to irrigation prohibitions unless the source of the raw water is within one-quarter mile of the free-flowing stream of the Kansas River.

- (3) The washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment is prohibited except on designated irrigation days between the hours of 12:00 midnight and 12:00 noon. For purposes of this section, designated irrigation days shall be those even-odd days as set forth in this section as it relates to the owner's (of the mobile equipment) address. Such washing, when allowed, shall be done with a handheld bucket, or a handheld hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use.

Exception: Washing of mobile equipment may be done at any time on the immediate premises of a commercial car wash. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleanings, such as garbage trucks and vehicles to transport food and perishables.

- (4) The sprinkling of foundations is prohibited except on designated irrigation days between the hours of 12:00 midnight and 12:00 noon.
- (5) The refilling or adding of water to swimming and/or wading pools is prohibited except on designated irrigation days between the hours of 12:00 midnight and 12:00 noon.
- (6) The operation of any ornamental fountain or other structure making similar use of water is prohibited except for those fountains/structures with a recycling system. The use of treated water to fill, refill or maintain the level of any fountain is prohibited.
- (7) Use of water from fire hydrants shall be limited to firefighting and related activities, and/or other activities necessary to maintain the health, safety and welfare of the citizens of the city. Water for street sweeping shall only be allowed to the extent necessary for maintaining the health, safety and welfare of the citizens of the city.
- (8) The waste of water is absolutely prohibited.
- (9) All restaurants are prohibited from serving water to their customers except when specifically requested by the customer.
- (10) New connections outside the city limits to the city's water distribution system, including any connections to rural water districts served by the city water system, will be suspended, except those agreements for individual service connections entered into by the city prior to the effective date of the declaration of the emergency.
- (11) The use of water sprinklers to cool air conditioners and flat-roofed buildings shall be limited to only the amount needed to provide for the essential health needs of the citizens of the city and provided that no waste of water occurs.

(b) *Emergency water rates.* Upon declaration of a water supply emergency as provided for in this division, the director is authorized to impose emergency water rates that are designed to conserve water supplies. Such emergency rates may provide for, but not be limited to, extra charges in excess of a specified level of water use (excess demand surcharge). The director may impose the emergency rates if needed to enforce the provisions of stage 2 when assurance storage levels in Tuttle Creek and Milford Reservoirs fall below 75 percent capacity. The emergency rate will be a rate 50 percent above the rate in effect for all consumption higher than the consumer's baseline consumption.

Consumers who do not exceed their baseline amount shall be billed at their regular rate. Consumers who exceed their baseline rate shall pay the regular rate for the baseline amount, and a rate 50 percent above the normal rate for all consumption higher than the baseline amount.

(Code 1981, § 44-164(b))

Sec. 146-172. Same--Stage 3, Mandatory conservation measures--Water warning.

(a) *Generally.* Upon the declaration of a water supply emergency as provided in this division, the director is authorized to implement the following water conservation measures. All elements of stage 2 shall remain in effect in stage 3 except that:

- (1) All outdoor irrigation of vegetation shall be allowed only between the hours of 12:00 midnight and 6:00 a.m. on designated days.
- (2) The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment not occurring upon the immediate premises of commercial car washes and not in the immediate interest of the public health, safety and welfare shall be prohibited.
- (3) The washing of automobiles, trucks, trailers, boats, airplanes and other types of mobile equipment upon the immediate premises of commercial car washes in the immediate interest of the public health, safety and welfare shall occur only between the hours of 12:00 midnight and 12:00 noon.
- (4) The sprinkling of foundations is prohibited except on designated irrigation days between the hours of 12:00 midnight and 6:00 a.m.
- (5) Commercial nurseries, commercial sod farmers, and similarly situated establishments shall water only between the hours of 12:00 midnight and 12:00 noon and shall use only handheld hoses, handheld buckets, or automatic sprinkler systems equipped with timers, metering devices or moisture sensors to monitor and limit the amount of water applied to that amount that is necessary to keep the plants or vegetation from becoming stressed.
- (6) The filling, refilling or adding of water to swimming and/or wading pools is prohibited.
- (7) The use of water for irrigation of golf tee areas is allowed only on designated irrigation days during the hours from sunset to sunrise. The use of water for irrigation of golf greens is allowed only during the hours from sunset to sunrise. Syringing of golf course greens is allowed to the

extent necessary to keep the greens from becoming stressed. The irrigation of golf course fairways is prohibited unless done with treated wastewater, by reusing water, or by utilizing raw water unless the source of the raw water is within one-quarter mile of the free-flowing stream of the Kansas River.

- (8) The operation of any ornamental fountain or similar structure is prohibited.
- (9) The nonessential use of water is prohibited.

(b) *Emergency water rates.* Upon declaration of a water supply emergency as provided for in this division, the director is authorized to impose emergency water rates that are designed to conserve water supplies. Such emergency rates may provide for, but not be limited to, extra charges in excess of a specified level of water use (excess demand surcharge). The director may impose the emergency rates if needed to enforce the provisions of this stage when assurance levels in Tuttle Creek and Milford Reservoirs fall below 50 percent capacity or when treatment plant pumpage is in excess of 90 percent of treatment plant capacity for more than three consecutive days. The emergency rate will be a rate 100 percent above the rate in effect for all consumption higher than the consumer's baseline consumption.

Consumers who do not exceed their baseline amount would be billed at the regular rate. Consumers who exceed their baseline rate would pay the regular rate for the baseline amount, and a rate 100 percent above the normal rate for all consumption higher than the baseline amount.

(Code 1981, § 44-164(c))

Secs. 146-173--146-195. Reserved.

ARTICLE III.

SEWERS AND SEWAGE DISPOSAL*

* **Cross References:** Plumbing code, § 26-406 et seq.; environment, ch. 66; property maintenance, ch. 112.
State Law References: Municipal sewers generally, K.S.A. 12-3104 et seq., 13-1013 et seq.

DIVISION 1.

GENERALLY

Sec. 146-196. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or *The Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 US 1251 et seq.

Approval authority means the Environmental Protection Agency (EPA) or if the pretreatment program has been formally delegated to the state department of health and environment (KDHE), it shall mean the

director of the division of environment of KDHE.

Authorized representative means:

- (1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
- (2) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively;
- (3) A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates;
or
- (4) A duly authorized representative responsible for the operation of a facility owned and/or operated by the state, federal or local government.

Beneficial uses means uses of the waters of the state that may be protected against quality degradation which include, but are not necessarily limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible, as specified by federal or state law.

BOD or *BOD* (*denoting biochemical oxygen demand*) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty (20) degrees Celsius, expressed in milligrams per liter.

Building sewer means a sewer conveying wastewater from the premises of a user to a community sewer.

City means the City of Topeka, Kansas, for the purpose of administering this article represented by the superintendent of the water pollution control division.

Combined sewer means a sewer receiving the combination of surface runoff, wastewater, sewage and/or industrial wastes.

Community sewer means a sewer owned and operated by the city or other public agency, tributary to a treatment facility operated by a public agency.

Composite sample means a combination of individual samples of water or wastewater taken at selected intervals (generally hourly or some similar specified period), to minimize the effect of the variability of the individual sample. Individual samples may have equal volume or may be roughly proportional to the flow at time of sampling.

Contamination means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health. "Contamination" shall include any equivalent effect resulting from the disposal of wastewater, whether or not waters of the state are affected.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

Department means the public works department of the city.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Environmental Protection Agency or *EPA* means the U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Foundation drain means a perforated pipe or a pipe with open joints or porous material installed either outside exterior foundation walls or inside exterior foundation walls or beneath a basement floor for the purpose of preventing the buildup of water pressure and water capillarity beneath the floor.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Hazardous waste means a hazardous waste as defined within the Code of Federal Regulations (40 CFR 261.3).

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank truck.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the act (33 USC 1317), into the POTW (including holding tank waste discharged into the system).

Industrial user means any user contributing industrial waste to the municipal sewer system.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with statutory provisions and regulations or permits issued thereunder by the state or federal government.

Mass emission rate means the weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the "mass emission rate" means pounds per day of a particular constituent or combination of constituents.

Municipal sewer system means sanitary sewers, pumping stations, sewage treatment plants, main sewers, interceptor sewers, outfall sewers, and works for the collection, transportation, pumping and treating of wastewater, sewage or industrial waste thereto, necessary in the maintenance and operation of the same.

National categorical pretreatment standard or pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the act (33 USC 1317), which applies to a specific category of industrial users.

National pollution discharge elimination system or NPDES permit means a discharge permit issued by the approval authority pursuant to section 402 of the act (33 USC 1342).

National prohibitive discharge standard or prohibitive discharge standard means any regulation developed under the authority of section 307(b) of the act.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that such building, structure, facility or installation meets the criteria outlined by 40 CFR 403.3(k) of the general pretreatment regulations.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or other legal representatives, agents or assignees.

PH means the negative logarithm of the reciprocal concentration of hydrogen ions measured in grams per liter of solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological material, radioactive material, heat wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects such waters for beneficial use or facilities which serve such beneficial uses. "Pollution" may include contamination.

Premises means a parcel of real estate including any improvements thereon which is determined by the department to be a single user for the purpose of receiving, using and paying for service.

Pretreatment or treatment means the reduction of the amount of pollutants, the removal of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of

discharging or otherwise introducing such pollutants into the municipal sewer system. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes by other means, except by dilution as prohibited by federal regulation.

Pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the act which applies to industrial users.

Publicly owned treatment works (POTW) means a treatment works as defined by section 212 of the act (33 USC 1292), which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purpose of this article, "POTW" also includes any sewers that convey wastewaters to the POTW from persons outside the city who are users of the city's POTW.

Sanitary sewer means a sewer which carries wastewater, sewage and/or industrial wastes, and to which storm, surface and ground waters are not intentionally admitted.

Sewage means a combination of the water-carried wastes from users together with such groundwaters, surface waters and stormwaters as may be present.

Sewer means a pipe or enclosed conduit through which sewage is transported to the POTW treatment plant.

Significant industrial user means:

- (1) Users whose average wastewater strength cannot be established because of seasonal or other variations and/or operations;
- (2) Users whose wastewater strength exceeds the normal range of wastewater strength;
- (3) Users using an unmetered source of water;
- (4) Users who fall under those guidelines set forth for federal categorical industries;
- (5) Users discharging an amount greater than twenty-five thousand (25,000) gallons per day of process wastewater for any day during the preceding twelve(12)month period;
- (6) Users whose average discharge, measured either by volume of flow, weight of suspended solids, biochemical oxygen demand, or chemical oxygen demand, exceeds two percent (2%) of the average loading on the applicable treatment facility; and
- (7) Other users determined by the superintendent to require special regulation or source control.

Significant noncompliance or *SNC* means and refers to any violation of pretreatment requirements (limits, sampling, analysis, reporting and meeting compliance schedules and regulatory deadlines) and is an instance of noncompliance for which the industrial user is liable for enforcement, including penalties. Instances of SNC are industrial user violations which meet one or more of the following criteria:

- (1) Violations of wastewater discharge limits:
 - a. Chronic violations: Sixty-six percent (66%) or more of the measurements exceed the same daily maximum limit or the same average limit in a six (6) month period (any magnitude of exceedance).
 - b. Technical review criteria or "TRC" violations: Thirty-three percent (33%) or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six(6) month period.

There are two (2) groups of TRCs: BOD, TSS, fats, oil, and grease, where the TRC is 1.4; and group II for all other pollutants, where the TRC is 1.2.
 - c. Any other violation of an effluent limit (average or daily maximum) that the city believes has caused, alone or in combination with other discharges, interference (e.g., slug loads) or pass-through; or endangered the health of the sewage treatment personnel or the public.
 - d. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (2) Violations of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by ninety (90) days or more after the schedule date.
- (3) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, ninety (90) day compliance reports, and periodic reports) within thirty (30) days from the due date.
- (4) Failure to accurately report noncompliance.
- (5) Any other violation or group of violations that the city considers to be significant.

Silver associated process means any process, manufacturing or service related business which falls within any of the following standard industrial classifications: 2711, 2721, 2731, 2732, 2741, 2751 to 2754, and 8062.

Slug means any discharge of wastewater, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times its average twenty-four (24) hour concentration or flows during normal operation.

Standard industrial classification or *SIC* means a classification pursuant to the most recent edition of the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

State means the "State of Kansas."

Stormwater means any water flow occurring during or following any form of natural precipitation and resulting therefrom.

Stormwater collection system shall include all piping, channels, ditches, streams, or any other manmade or natural structure that conveys stormwater runoff.

Superintendent means the superintendent of the city water pollution control division of the city public works department, or designated representative.

Total suspended solids means solids that either float on the surface of or are in suspension with water, sewage or other liquids; and which are removable by laboratory filtering.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of section 307(a)(1) of the act.

Unpolluted water means water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable for disposal to storm or natural drainages or directly to surface waters.

User means any person that discharges, directly or indirectly, causes or permits the discharge of wastewater into a community sewer.

Waste means substances, whether liquid or solid, associated with human habitation or of human origin or from any producing, manufacturing or processing operation of whatever nature, whether treated or untreated, discharged into or permitted to enter a community sewer.

Wastewater means waste and water, whether treated or untreated, discharged into or permitted to enter a community sewer.

Waters of the state means any water, surface or underground, within the boundaries of the state. (Ord. No. 16388, § 4, 11-5-91; Ord. No. 18272, § 1, 6-22-04)

Cross References: Definitions generally, § 1-2.

Sec. 146-197. Abbreviations.

As used in this article, the following abbreviations shall have the meanings designated in this section:

BOD means biochemical oxygen demand.

CFR means the Code of Federal Regulations, 1988.

EPA means the Environmental Protection Agency.

KDHE means the state department of health and environment.

l means liter.

mg means milligram.

mg/l means milligrams per liter.

NPDES means the national pollutant discharge elimination system.

POTW means the publicly owned treatment works.

SIC means standard industrial classification.

TSS means total suspended solids.

(Ord. No. 16388, § 4, 11-5-91)

Sec. 146-198. Statement of purpose.

The purpose of this article is to:

- (1) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (2) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
- (4) Enable the water pollution control division of the public works department to meet water quality requirements, to ensure compliance with any applicable effluent limitations, national standards of performance, toxic pretreatment effluent standards, and other discharge criteria which are required by state and federal law; and
- (5) Provide for the issuance of permits to certain users and the establishment of penalties for violation of this article.

(Ord. No. 16388, § 1, 11-5-91)

Sec. 146-199. Statement of policy.

This article provides for the regulation of contributors to the municipal wastewater system through the issuance of wastewater discharge permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and assumes that existing customers will not be preempted.

(Ord. No. 16388, § 2, 11-5-91)

Sec. 146-200. Applicability.

This article shall apply to the city and to persons outside of the city who are, by contract or agreement with the city, users of the city's publicly owned treatment works (POTW). Except as otherwise provided in this article, the superintendent of the water pollution control division, or designated representative, shall administer, implement, and enforce the provisions of this article.

(Ord. No. 16388, § 3, 11-5-91)

Secs. 146-201--146-210. Reserved.

DIVISION 2.

ENFORCEMENT

Sec. 146-211. Notice of violation.

Whenever the superintendent or his designated representative finds that any user has violated or is violating this article, the wastewater discharge permit, or any prohibition, limitation or requirements contained in this article, the superintendent or his designated representative may serve by certified mail written notice upon such user, which states the nature of the violation. Within 30 days of the date of notice, a detailed compliance plan for the satisfactory correction thereof shall be submitted to the superintendent by the user.

(Ord. No. 16388, § 9, 11-5-91)

Sec. 146-212. Revocation of wastewater discharge permit.

Any user who violates the following conditions of this article, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this article:

- (1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;
or
- (4) Violation of conditions of the wastewater discharge permit.

(Ord. No. 16388, § 9.1, 11-5-91)

Sec. 146-213. Issuance of cease and desist orders.

When the division of water pollution control finds that a discharge of wastewater has been taking place, or threatens to take place, in violation of prohibitions or limitations of this article, or the provisions of the wastewater discharge permit, the superintendent may issue an order to cease and desist, directing those persons

not complying with such prohibitions, limits, requirements or provisions to:

- (1) Comply forthwith;
 - (2) Comply in accordance with a compliance schedule set forth by the department; or
 - (3) Take appropriate or remedial preventive action in the event of a threatened violation.
- (Ord. No. 16388, § 9.2, 11-5-91)

Sec. 146-214. Termination of service.

(a) The superintendent may suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit. This subsection is in addition to other statutes, rules or regulations authorizing termination of service for delinquency in payment.

(b) Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary, including immediate severance of the sewer and/or water connections, to prevent or minimize damage to the POTW system or endangerment to any individuals. The superintendent shall reinstate the wastewater permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the cause of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

(Ord. No. 16388, § 9.3, 11-5-91)

Sec. 146-215. Liability for damage.

Any person who causes or is responsible for damage to any public sanitary or storm sewer or appurtenances thereto, including manholes, catchbasins and inlets, shall be liable for the cost of repairs to that facility. The repairs may be made by a private contractor or by personnel of the division of water pollution control, at the option of the superintendent. Cost of repair shall be the responsibility of the person causing or responsible for the damage. If the person responsible for the damage refuses to pay the cost of the repair bill, at the option of the superintendent, the cost for making the repairs may be added on to the property tax of any real property belonging to the person responsible for the damage to the public facility.

(Ord. No. 16388, § 9.4, 11-5-91)

Sec. 146-216. Injunctions.

Whenever a discharge of wastewater is in violation of the provisions of this article or otherwise causes or threatens to cause a condition of contamination, pollution or nuisance, the department may petition the district court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such discharge.

(Ord. No. 16388, § 9.5, 11-5-91)

Sec. 146-217. Falsifying information.

It shall be illegal for any person to knowingly make any false statement, representation, record, report, plan or other document to the division of water pollution control. It shall also be illegal for any person to falsify or knowingly render inaccurate any monitoring device or method which is required under this article. (Ord. No. 16388, § 9.6, 11-5-91)

Sec. 146-218. Criminal violations.

Any person who intentionally discharges wastewater in any manner in violation of this article or of any order issued by the superintendent shall be guilty of a misdemeanor. (Ord. No. 16388, § 9.7, 11-5-91)

Sec. 146-219. Civil penalties.

In addition to any other penalty provided by law, a civil penalty in an amount up to \$1,000.00 per day per violation may be assessed against a user by the superintendent for violation of the following:

- (1) Any term or condition of any sewage discharge permit.
- (2) Any effluent standard or limitations or any water quality standard or other rule or regulation promulgated by federal, state or local law or regulation.
- (3) Any filing, reporting, inspection or monitoring requirement required by federal, state or local law or regulation.
- (4) Any lawful order or requirement made by the superintendent of the water pollution control division.

In the case of a continuing violation, each day such violation continues shall be deemed a separate violation. Consideration may be given for accidental or inadvertent spills or releases. (Ord. No. 16388, § 9.8, 11-5-91)

Sec. 146-220. Determination of civil penalties.

(a) *Notice.* Prior to the assessment of a civil penalty, the superintendent shall hold a hearing on the matter. The superintendent shall send notice of the hearing by registered mail to the user. The notice shall include:

- (1) A listing of section titles and numbers alleged to have been violated;
- (2) Dates of violation(s);
- (3) A brief factual basis demonstrating the alleged violation; and
- (4) A specific date, time and location where a hearing will be held, which shall not be less than ten

days or more than 30 days after the service of the notice.

(b) *Hearing.* At the hearing under this section the following shall apply:

(1) The superintendent of the water pollution control division shall act as hearing officer.

(2) The parties in interest shall have the right to file an answer to the complaint(s) and give testimony at the hearing.

(3) The rules of evidence shall not be controlling at the hearing.

(4) The hearing officer shall have the power to:

a. Investigate the facts alleged to constitute the violation;

b. Administer oaths and/or affirmations;

c. Examine witnesses;

d. Receive evidence;

e. Make a determination if a violation has occurred; and

f. Impose a penalty within the limits provided by ordinance.

(5) The hearing officer shall have the power to change, modify or suspend any imposition of a fine or penalty where the hearing officer finds there is practical difficulty or undue hardship connected with the performance of any act required by the provisions of this article or by applicable rules and regulations issued pursuant thereto and that such extension is in harmony with the general purpose of this article to secure public health, safety and welfare.

(Ord. No. 16388, §§ 9.9, 9.10, 11-5-91)

Sec. 146-221. Civil penalty order.

No penalty shall be imposed except upon the written order of the superintendent of the division of water pollution control to the user stating the violation found, the penalty imposed and the right of such person to an appeal to the district court of the state. Such order shall be served upon each party found to be in violation, or their lawful agent, by registered mail.

(Ord. No. 16388, § 9.11, 11-5-91)

Sec. 146-222. Regulatory penalty.

If any public, state or federal agency imposes or threatens to impose any penalty upon the department, the department will immediately notify the person who is suspected of causing the department to be in violation by virtue of their discharge to the city sewer. If a penalty is subsequently assessed against the department, the person causing the department to be in violation shall be liable for such penalty. All fines imposed as a result of

a violation of this article shall be paid to the city and credited to the department.
(Ord. No. 16388, § 9.12, 11-5-91)

Sec. 146-223. Damage to facilities.

When it has been determined that a discharge of wastes causes an obstruction, damage or any other impairment to POTW facilities, the division of water pollution control may assess a charge against the user causing that discharge for the work required to clean or repair the facility, and add such charge to the user's wastewater service charges. The determination of responsibility may be negotiated between the division of water pollution control and the user or may be determined by an independent consulting firm.
(Ord. No. 16388, § 9.13, 11-5-91)

Sec. 146-224. Publication of list of industrial users with significant noncompliance.

The city shall publish, at least annually, within the largest daily local newspaper, a list of industrial users that were found to be with significant noncompliance with applicable pretreatment standards and requirements during the previous 12 months.
(Ord. No. 16388, § 9.14, 11-5-91)

Secs. 146-225--146-235. Reserved.

DIVISION 3.

SEWER CONSTRUCTION AND CONNECTIONS GENERALLY

Sec. 146-236. Connection required; enforcement.

(a) It shall be the duty of every person owning any dwelling house or any other building within the city to make connections with the public sanitary sewer for the purpose of disposing of all substances from any such building, affecting the public health which may be lawfully and properly disposed of by means of such sewer. Connection with the public sanitary sewer is required when the main or lateral sewer is adjacent to the property and one or more of the following conditions exist:

- (1) The septic system serving the property constitutes a public nuisance. The director of public works for the city is hereby designated to determine when a septic system is a public nuisance; and/or
- (2) The property changes ownership; and/or
- (3) Modifications are made to the main structure located on the property that requires issuance of a building permit; and/or
- (4) Within five years of the construction of the public main or lateral sanitary sewer, such time not starting any sooner than the effective date of this ordinance.

(b) *Failure to connect/service assessment.* If any person shall fail, neglect or refuse to connect any

such building with the sewer system as provided by this division for more than 30 calendar days or in the case of public nuisance for more than ten days after being notified in writing by the department of public works or their designee to do so, the city may advertise for bids for the construction and make contracts therefor to the lowest responsible bidder and may cause such buildings or premises to be connected with the sewer system and may assess the cost of expense including any applicable connection fees thereof against the property and premises so connected, such assessment to be made in the same manner as other special assessments are made. The city and its designated representatives shall have the right of entry onto properties for the purposes set forth in this division.

(c) *Extension of time to connect.* The council may extend the time to make connection with the public sanitary sewer if city administered loan money for qualifying property owners is not available at the written request of the person owning the dwelling or other building and the requester is a qualified property owner.

(Ord. No. 16388, § 5.0, 11-5-91; Ord. No. 17089, §§ 2--4, 3-11-97)

Sec. 146-237. Size, location, plans.

The city engineer shall lay out and determine the size, location and grade, and make all necessary plans, specifications, requirements and estimates, for all sewers within the main sewer districts and sewer subdistricts heretofore designated or hereafter created and designated and file the same in the engineer's office for the use of the city, and at the expiration of the term of office deliver the same intact to the successor. When the city engineer does not have sufficient staff or the improvement is of such nature as to require special knowledge or experience, the public works director may enter into a contract with consulting engineers for the engineering work, such work to be approved by the city engineer.

(Ord. No. 16388, § 5.1, 11-5-91)

Sec. 146-238. Permit--Required.

(a) No sewer or drain of any kind shall be connected with the sewers constructed under authority of the city within any of the main sewer districts or sewer subdistricts of the city, except by written permission of the city engineer and by compliance with all the rules, regulations and specifications provided for the proper construction and maintenance of such sewers or drains.

(b) Any person owning property within the city limits, which property is not within any lateral sanitary sewer district theretofore created, desiring to make connection to the sanitary sewage system, shall make application for a permit to the city engineer.

(Ord. No. 16388, § 5.2, 11-5-91)

Sec. 146-239. Same--Conditions.

All permits granted under this division shall expressly state that the applicant, and any grantees, devisees, heirs, administrators and assigns, agree and consent that the property covered in the permit may thereafter be included in any sanitary sewage district whenever created in accordance with law.

(Ord. No. 16388, § 5.4, 11-5-91)

Sec. 146-240. Sanitary sewer failures and repair responsibilities.

(1) The maintenance and repair of a building service line and its connection with the city sewer main is the responsibility of the owner of the property it serves. It is therefore the responsibility of the property owner to make repairs if there is a failure in the building service line or the wye connection to the city sewer main and the responsibility of the city if there is a failure in the city sewer main. The first indication of sewer failure or potential failure may vary. It is the intention of the water pollution control division to cooperate with the individual property owners and the plumbers in the resolution of these sanitary failures within the following guidelines.

(2) Sewer failure--Excavation.

(a) *Settlement of ground surface.* In some cases failure of a sewer line is first indicated by settlement of the ground surface near a failure. This can happen before there is any apparent malfunction in either the building service line or the city sewer main. When this occurs over or near the connection of the building service line to the city sewer main, it is not always possible to determine before excavation whether the failure is in the building service line, the city sewer main, or both. If there is no indication at this time that the building service line has failed, the water pollution control division will make an attempt to determine the problem by inspection of the city sewer main. If the problem is with the city sewer main, or if the city is unable to inspect the city sewer, the division will make the initial excavation to determine the source of the problem.

(b) *Sewer stoppage/backup.* If the backup of sewage is the first indication of failure, the water pollution control division will assist by investigating to determine if there is a stoppage in the city sewer main.

(1) If the city sewer main has deteriorated to the point where it appears to be the source of the problem or if the city sewer main contains a stoppage that cannot be removed by conventional methods, then the water pollution control division will make the initial excavation to determine the extent of the failure.

(2) If the city sewer main is not obstructed, but is open and flowing, and the private sewer line has failed, it then becomes the responsibility of the property owner to make the necessary repairs within seven (7) days. In this case, the water pollution control division will not make the initial excavation.

(c) *Excavation requirement.* It shall be the total responsibility of the party making the excavation to make it of adequate size for water pollution control division personnel to work safely for inspection of the sewer and/or repairing of the wye connection.

(3) Sewer repairs.

(a) *City sewer is broken.* If the city sewer main is broken or in such poor condition that it is impractical to make a new wye connection (except where the city sewer main was broken during excavation by others), then the water pollution control division will provide the following services:

- (1) Make the additional excavation required to remove the damaged pipe and replace the broken section(s) of pipe.
 - (2) Install a new wye connection thereto and pour a concrete base under the city sewer or provide adequate support.
 - (3) If the material removed from the hole is unacceptable for backfilling, the water pollution control division will furnish new backfill material.
 - (4) Haul off any excess dirt or other material unacceptable for backfill.
 - (5) Remove any debris left on city property.
 - (6) Replace the surfacing.
 - (7) If the initial excavation was made by the property owner(s), the water pollution control division may share in the cost, depending upon the reason for the initial excavation.
- (b) *Broken wye.* If the wye connection itself is broken at the city sewer main, the private sewer line has also failed and the city sewer is in good condition, the water pollution control division will also haul off any excess dirt or other material unacceptable for backfill and remove any debris left on city property. The water pollution control division may participate in the cost of additional items of work where the cost is excessive due to surfacing or deep sewers. It is the responsibility of the property owner(s) to hire a plumber to install the private sewer line(s), replace the backfill material and compact it in accordance with engineering department standards.
- (c) *City sewer intact.*
- (1) If the city sewer main and the wye connection itself are intact and only the private sewer line(s) is damaged, the water pollution control division has no responsibility and therefore will not assist in or pay for any portion of the repair work. In such cases, the water pollution control superintendent or designee shall direct the property owner, from which the building service line extends, to repair the service line within seven (7) days.
 - (2) The property owner may, through written request, authorize the water pollution control division to cause the private sewer line to be repaired and reimburse the water pollution control division for any cost and expenses incurred therewith.
 - (3) The water pollution control division shall exercise diligence, including sending a certified letter, return receipt requested, in attempting to locate and direct the property owner to repair the service line. However, if said property owner cannot be located or if said property owner fails to secure the service of a contractor to repair the private sewer service line within seventy-two (72) hours of having received notice from the superintendent, then the water pollution control division shall cause the private sewer

line, situated in the public right-of-way, to be repaired and excavation backfilled. The said property owner shall be responsible for any cost and expenses incurred in connection with said repair.

- (4) The water pollution control division shall submit a bill to the owner of any property for which it caused a private sewer line to be repaired. In the event the owner of any property for which the water pollution control division has caused replacement or repair of a private sewer service line shall neglect, fail or refuse to pay the cost or expenses incurred by the water pollution control division, such charges shall constitute a lien upon the real estate from which the private sewer line extends, and shall be certified by the city clerk to the county clerk, to be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other taxes are by law collectable.
- (5) The officials of the department of public works shall be authorized to inspect any sewer repair work done in public right-of-way or easement pursuant to the provisions of this section.

(Ord. No. 16388, § 5.3, 11-5-91; Ord. No. 17090, § 1, 3-11-97; Ord. No. 18272, § 2, 6-22-04)

Sec. 146-241. Settling, collapse of public ways due to faulty sewer installation; repairs; costs.

(a) Whenever officials of the city's public works department investigate any localized settlements or collapses in public streets, easements, alleys or rights-of-way and determine that such settlement or collapse has occurred due to inadequacies of a public sewer line, then the water pollution control division shall make or cause to be made immediate repairs and backfill the excavation. However, if the settlement or collapse is found to have resulted from inadequacies in a private sewer line, then the water pollution control division superintendent or designee shall direct the property owner from which the building service line extends to repair the service line within seven days.

(b) The property owner may, through written request, authorize the water pollution control division to cause a private sewer line to be repaired and reimburse the water pollution control division for any cost and expenses incurred therewith.

(c) The water pollution control division shall exercise diligence, including sending a certified letter, return receipt requested, in attempting to locate and direct the property owner to repair the service line. However, if such property owner cannot be located or if such property owner fails to secure the service of a contractor to repair the private sewer service line within 72 hours of having received notice from the superintendent, then the water pollution control division shall cause the private sewer line situated in the public right-of-way to be repaired and excavation backfilled. The property owner shall be responsible for any cost and expenses incurred in connection with such repair.

(d) The water pollution control division shall submit a bill to the owner of any property for which it caused a private sewer line to be repaired. If the owner of any property for which the water pollution control division has caused placement or repair of a private sewer service line shall neglect, fail or refuse to pay the cost or expenses incurred by the water pollution control division, such charges shall constitute a lien upon the real estate from which the private sewer line extends, and shall be certified by the city clerk to the county clerk, to be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other taxes

are by law collectable.

(e) The officials of the department of public works shall be authorized to inspect any sewer repair work done in public rights-of-way or easements pursuant to the provisions of this section.
(Ord. No. 16388, § 5.5, 11-5-91)

Secs. 146-242--146-250. Reserved.

DIVISION 4.

SERVICE OUTSIDE CITY

Sec. 146-251. Approval of connections by engineer; compliance with applicable laws.

Sewer service to property outside of the city may be connected to the city sewage system or to sewers belonging to another but emptying into the city sewage system only with the approval of the city engineer. Such sewer service connections shall comply with all applicable ordinances, specifications, rules and regulations of the city.

(Ord. No. 16388, § 6.0, 11-5-91; Ord. No. 18272, § 3, 6-22-04)

Sec. 146-252. Rates.

(a) Rate and charges for customers outside the city operating under the terms of this article for sewer maintenance, sewage transportation and sewage treatment shall be as established by ordinance of the city, and such rates shall be sufficient to pay costs and expenses of the following three general classifications:

- (1) Sewage disposal and treatment.
- (2) Sewage transportation.
- (3) Sewer operation and maintenance.

(b) All rates for customers outside the city shall be reviewed at least every five years or more frequently at the discretion of the city, except rates for sewage disposal and treatment, which rates shall be reviewed, altered or amended as other rates within the city limits.

(Ord. No. 16388, § 6.1, 11-5-91)

Sec. 146-253. Sewer districts--Application.

Any sewer district outside of the city may apply to the department of public works for permission to connect to the city sewage system and to empty sewage therein. Such application shall contain among other things a statement on the part of any applicant that the applicant agrees to be governed by the terms of this article and amendments thereto and any additional agreements which may be entered into between the applicant and the city.

(Ord. No. 16388, § 6.2, 11-5-91)

Sec. 146-254. Same--License or contract.

If an application is made as provided for in section 146-253, the director of public works shall consider the application and may grant permission for connection to the city sewage system conditioned by the terms of this article and such ordinances, rules and regulations or resolutions as are made applicable thereto. Such permission shall become operative upon entering into a contract. The contract shall have no term but shall be revocable by the city at any time on ten days' written notice to the licensee, and any such revocation shall state a reasonable number of days at the end of which the licensee shall have disconnected from the city sewage system.

(Ord. No. 16388, § 6.3, 11-5-91)

Sec. 146-255. Conditions of contracts.

The city may contract to furnish sewer service and sewage treatment service to any sewer district outside of the city limits and to maintain such system, provided that:

- (1) The installation of such outside system or sewer is made without cost to the city or any of its departments;
- (2) The installation of all sewer mains, lateral sewers, sewer house lines and appurtenant equipment are made under the ordinances of the city and comply with all ordinances, resolutions, rules and regulations of the city and are subject to the inspection and approval of the same;
- (3) If such contract provides for the city to collect billings for individual use, the city shall have the same rights of collection and control as it has within the city limits;
- (4) The city approves the plans, specifications and contracts for the installation of additional sewers;
- (5) No sewer house lines, lateral sewers or sewer main may be attached to the city sewage system except by the city or with its prior approval; and
- (6) The city shall have complete charge of the physical operation and maintenance of the sewers covered by such contract after their construction and acceptance by the city.

(Ord. No. 16388, § 6.4, 11-5-91)

Sec. 146-256. Annexation and funding of sewer service and extensions.

(A) It is the desire of the City of Topeka to conform to the Community Goals Statement adopted as part of the 1986 Shawnee County Wastewater Management Plan, as amended. Specifically the statements include:

- (1) Direct new growth to developable areas served by existing public facilities.
- (2) Use the community's provision of public facilities as a method of guiding growth.
- (3) Identify environmentally sensitive areas and guide development away from areas of greatest

adverse environmental impact.

- (4) Identify and strive to preserve prime agricultural land for production of food and fiber.
- (5) Encourage residential development near existing essential services, facilities, and centers of employment.

(B) The Shawnee County Wastewater Management Plan designates service areas into four categories. These include; urban, primary urban, secondary urban, and rural-agriculture. Urban areas are those which are currently within the City of Topeka limits. Primary urban are those areas which are anticipated to become urbanized by 2005. Secondary urban are those areas which are expected to become urbanized by 2025. Rural-agriculture areas include the remainder of Shawnee County. It is the City of Topeka's intent to serve urban and primary urban service areas, and in some cases, to serve secondary urban service areas. In order to provide new services to expected growth areas, water pollution control will identify annual capital improvement expenditures as well as revenue from connection fees to facilitate the orderly expansion of the City of Topeka and its wastewater utility.

- (C) Funding and annexation in the service areas will be subject to the following requirements:
- (1) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the city sewer system that are adjacent to the existing city limits requiring sewer service shall require annexation prior to service being provided.
 - (2) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the city sewer system that are contained within the primary service area as defined in the Shawnee County Wastewater Management Plan, as amended, and also contained in the current Municipal Service Area as defined in chapter 134 shall require annexation, except as provided in subsection (C)(6) below, prior to service being provided. A portion of the cost to design and construct the major interceptors necessary to serve these areas may be paid through the City of Topeka Water Pollution Control Fund if sufficient service extension funding is available and if the extension is consistent with the Topeka Utilities Extension Growth Policy maintained by the public works department.
 - (3) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the city sewer system that are contained within the current municipal service area as defined in chapter 134 shall require annexation, except as provided in subsection (C)(6) below, prior to service being provided. A portion of the cost to design and construct the major interceptors necessary to serve these areas may be paid through the City of Topeka Water Pollution Control Fund if sufficient service extension funding is available and if the extension is consistent with the Topeka Utilities Extension Growth Policy maintained by the public works department.

- (4) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the city sewer system that are contained within the primary service area as amended and not in the current municipal service area as defined in chapter 134 shall require consent to annexation prior to service being provided. Major interceptors necessary to serve proposed development in this area shall conform to approved sizing and routing as determined by the city engineer. The total cost of extending city sewer service, including interceptors and service lines, shall be borne by the developer without any participation by the City of Topeka.
- (5) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the city sewer system that are contained within the secondary urban service area as amended shall require consent to annexation prior to service being provided. Major interceptors necessary to serve proposed development in this area shall conform to approved sizing and routing as determined by the city engineer. The total cost of extending city sewer service, including interceptors and service lines, shall be borne by the developer without any participation by the City of Topeka.
- (6) An owner of real property outside the city limits may be exempt from the annexation requirement set forth in subsections (C)(2) or (C)(3) above if the property owner consents to annexation of the real property to be served and at least one of the following conditions are satisfied:
 - (i) To eliminate an imminent threat to public health and safety as determined and/or ordered by the Kansas Department of Health and Environment or a similar regulatory agency, or a court of law.
 - (ii) To promote an economic development project as determined by the city council.
 - (iii) To avoid unnecessary hardship in situations not created by the actions of the applicant as determined by the city council.
 - (iv) The city is obligated to provide sanitary sewer service to the property owner by contract or other legally enforceable document.
- (7) The city council shall be notified of the approval of a sewer connection requiring only a consent to annexation under the exceptions set forth in subsection (C)(6)(i), (C)(6)(ii), (C)(6)(iii), and (C)(6)(iv).

(Ord. No. 16388, § 6.5, 11-5-91; Ord. No. 18272, § 4, 6-22-04; Ord. No. 18548, § 1, 12-20-05)

Sec. 146-257. Agreement for annexation for future connections.

(a) *Findings.* The following findings pertaining to sewage collection facilities and services out of the city limits are hereby made and declared:

- (1) The city has in the past contracted with the board of county commissioners to allow county sewer districts to connect to the city sewage collection system;
- (2) The city is providing a municipal service to these county sewer districts without the collection of any tax money;
- (3) Many residents of the county sewer districts earn their living in the city and use its municipal facilities; and
- (4) The city does not have adequate control over the quality of construction of facilities constructed outside of the city limits.

(b) *Policy.* Based on the findings made and declared in subsection (a), it is hereby declared to be the policy of the city that connection to the city sewage collection system of any additional sewer house lines, lateral sewers, sewer mains or sewer districts located outside the city limits will be conditional upon either annexation or consent to annexation of the area to be served, as determined by the City of Topeka Public Works Director after review by the planning director.

(Ord. No. 16388, § 6.6, 11-5-91; Ord. No. 17910, § 1, 11-5-02)

Secs. 146-258--146-270. Reserved.

DIVISION 5.

USE REGULATIONS

Sec. 146-271. Combined sewers not to be approved.

No request or petitions for construction of combined sewers will be considered or approved by the public works department.

(Ord. No. 16388, § 7.0, 11-5-91)

Sec. 146-272. Unlawful use and/or maintenance of certain drains, discharges and mechanisms.

(a) Except as provided for in this division, it shall be unlawful for any person to connect any roof drains, area drains, foundation drains or stormwater inlets to a public sanitary sewer or to discharge roof drainage water, groundwater or stormwater into a public sanitary sewer, either directly or indirectly. For the purpose of this section, the term "sanitary sewer" shall include combination sewers which carry both sanitary sewage and stormwater or groundwater, as well as sewers which carry sanitary sewage only.

(b) Notwithstanding any provision to the contrary, it shall be unlawful for any person to maintain or install any mechanism, drain, floor, installation or system which, because of its improper construction, inadequacy or unsuitability, causes or contributes to the cause of or permits because of the location or design, any oil and grease in excess of the discharge limits contained in this article, or any flammable liquid to be discharged, drained or emptied into a public sewer of the city, either directly or indirectly.

(Ord. No. 16388, § 7.1, 11-5-91)

Sec. 146-273. Prohibitions on storm drainage and groundwater.

(a) Disposal of stormwater, groundwater, street drainage, subsurface drainage, yard drainage, foundation drains on construction directly or indirectly to any sanitary sewer will not be allowed unless a permit is issued by the department of public works. The department may approve such discharge only when no reasonable construction is available or such water is determined to constitute a pollution hazard. Storm drainage and groundwater as described above shall be discharged into such storm sewers as are reasonably available and specially designed for such purpose or into a natural watercourse. No such waters shall be discharged or disposed of in any manner causing or tending to create a public nuisance upon any private premises in the city or upon any public street, alley or public grounds in the city.

(b) If the approval is granted for the discharge of such waters referred to in subsection (a) into the sanitary sewers, the user shall measure such discharges and pay the applicable wastewater service charges and meet such other conditions that may be required by the department.

(c) The existing wastewater collection system shall not be used to drain water from the trench during construction of any new sanitary sewer. The connection between the new system being constructed and the existing system shall not be made until the new system had been inspected and approved. When portions of the system are approved and put into service prior to completion of the entire project, the incomplete lines shall be plugged to prevent water in the trench from entering the existing sewage collection system.
(Ord. No. 16388, § 7.2, 11-5-91)

Sec. 146-274. Prohibition on unpolluted water.

(a) Unpolluted water, including but not limited to noncirculated cooling water, process water or blow-down from cooling towers or evaporative coolers or any other unpolluted water will not be permitted to be discharged through direct or indirect connection to a sanitary sewer without written approval of the department of public works. The department may approve the discharge of such water only when no reasonable alternative method of disposal is available.

(b) If approval is granted for the discharge of unpolluted water to a sanitary sewer, the user shall measure such discharge and pay the applicable wastewater service charges and fees and shall meet such other conditions as may be required by the department.
(Ord. No. 16388, § 7.3, 11-5-91)

Sec. 146-275. Reserved.

Editors Note: Ord. No. 17399, § 20, adopted Sept. 7, 1999, repealed § 146-275 in its entirety. Formerly, said section pertained to substances harmful to the storm sewage system. See the Code Comparative Table.

Sec. 146-276. Reserved.

Editors Note: Ord. No. 17399, § 20, adopted Sept. 7, 1999, repealed § 146-276 in its entirety. Formerly, said section pertained to the prohibiting of discharge of concrete into storm sewer and its penalty. See the Code Comparative Table.

Sec. 146-277. Unlawful waste discharges in sanitary sewer.

(a) No user of the POTW shall contribute or cause to be contributed, directly or indirectly, any

pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of the POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

- (b) A user may not contribute the following substances to the POTW:
 - (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, and any pollutant which creates a fire hazard or explosion hazard in the POTW, including but not limited to waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius.
 - (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as but not limited to grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissue, paunch manure, bones, hair, hides or fleshings, entrails, whole bloods, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gasoline, tar, asphalt, residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing waste.
 - (3) Any wastewater having a pH of less than 5.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW.
 - (4) Any wastewater containing pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create an interference in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. Such pollutants shall include but not be limited to any pollutant identified pursuant to section 307(a) of the act.
 - (5) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
 - (6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the act, any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the solid waste disposal act, the clean air act, the toxic substance control act, or state criteria applicable to the sludge management method currently being used by the city.

- (7) Any substance which will cause the POTW to violate its NPDES and/or state discharge system permit or the receiving water quality standards.
- (8) Any wastewater with objectionable color not removed in the treatment process, such as but not limited to dye wastes and vegetable tanning solutions.
- (9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit).
- (10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentrations, quantities or flow during normal operation.
- (11) Any wastewater containing any radioactive waste or isotope of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
- (12) Any wastewater which causes a hazard to human life or creates a nuisance.

(c) When the superintendent determines that a user is contributing to the POTW any of the above-enumerated substances in such amounts as to interfere with the operation of the POTW, the superintendent shall:

(1) Advise the user of the impact of the contribution on the POTW; and

(2) Develop effluent limitations for such user to correct the interference with the POTW.

(Ord. No. 16388, § 7.6, 11-5-91)

Sec. 146-278. Federal categorical pretreatment standards.

Upon a new promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations and/or requirements imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12. Conversely, any state or local limitations and/or requirements shall apply if the state or local limitation is more stringent than the federal limitations and/or requirements.

(Ord. No. 16388, § 7.7, 11-5-91)

Sec. 146-279. Limitations--Wastewater strength.

(a) No person shall discharge wastewater containing in excess of 1.76 mg/l lead or 2.61 mg/l zinc.

(b) No person who conducts a silver associated process shall discharge wastewater containing in

excess of 0.57 mg/l total silver. Persons who do not engage in silver associated processes are prohibited from discharging detectable amounts of silver until such time as a determination can be made of the silver associated process and/or an adjustment can be made to the silver limit so as to protect the POTW and/or receiving stream. Any adjustment of the silver limit shall be in conformity with 40 CFR 403.

(c) The limitations of subsection (a) are subject to change if and when they become unacceptable to the division of water pollution control or to any public agency having regulatory jurisdiction over the division of water pollution control.

(d) No person shall discharge wastewater containing concentrations which will violate conditions found in this article or wastewaters which will violate the conditions established by the definitions of pass-through and interference. The division of water pollution control reserves the right to define numerical discharge permit limits as outlined in this article for any parameters as may be needed to protect the POTW system.

(e) No person shall discharge any wastewater:

(1) Having an average daily temperature higher than 140 degrees Fahrenheit or causing the temperature of the sewage in the city sewer to be raised more than ten degrees Fahrenheit.

(2) Having a pH lower than 5.5 or higher than 10.8.

(3) Having any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius).

(4) Containing petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.

(Ord. No. 16388, § 7.8, 11-5-91)

Sec. 146-280. Same/NRadioactive wastes.

No person shall discharge or cause to be discharged any radioactive waste into a sanitary sewer except:

(1) When the person is authorized to use radioactive materials by the state department of health and environment or other governmental agency empowered to regulate the use of radioactive materials;

(2) When the waste is discharged in strict conformity with current state radiation control regulations and recommendations for safe disposal; and

(3) Is in compliance with all rules and regulations of local regulatory agencies.

(Ord. No. 16388, § 7.9, 11-5-91)

Sec. 146-281. Same--Use of garbage grinders.

Solid waste generated in the preparation of food may not be discharged to a sanitary sewer until it has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the sanitary sewer. A produce market, meat market or other commercial establishment engaged in the wholesale or retail distribution of food products shall not dispose of their wastes by grinding and discharge into the city sewer where these wastes could be disposed of as a solid waste. Garbage grinders shall not be used for the disposal of plastic, paper products, rags, feathers or other inert materials.
(Ord. No. 16388, § 7.10, 11-5-91)

Sec. 146-282. Same--Point of discharge.

No person shall discharge any substance directly into a manhole or other opening in a sanitary sewer other than through a building sewer approved by the department of public works. However, upon written application by the user and payment of the applicable wastewater service charges and fees, the department may grant permission for such direct discharges at approved locations.
(Ord. No. 16388, § 7.11, 11-5-91)

Sec. 146-283. Use of grease traps.

Grease traps shall be installed in accordance with the requirements of article VIII of chapter 26 of this Code to ensure compliance with the effluent limitations contained in this article. The owner or operator of each establishment shall be responsible for servicing and routine cleaning of the grease trap to maintain it in satisfactory operating condition. The owner or operator shall also be responsible for removing the cover of the grease trap for inspection at the request of any representative of the public works department. Any existing establishments not currently using a grease interceptor shall be required to install such if future data (laboratory data and/or preventive maintenance data) show a need for waste pretreatment requirements regulated by the water pollution control division.
(Ord. No. 16388, § 7.12, 11-5-91; Ord. No. 18272, § 5, 6-22-04)

Sec. 146-284. Certain connections to be sealed with blind plug until area adjacent to foundation backfilled and compacted.

Any connection of any kind below finished grade either directly or indirectly to any public sanitary sewer for any building under construction shall be sealed with a blind plug, using accepted sealing methods, and such seal shall not be broken or removed until the area adjacent to the foundation of such building is backfilled and compacted in a proper manner to a height at the foundation wall of ten inches above the natural ground level at a distance of ten feet from the foundation wall.
(Ord. No. 16388, § 7.13, 11-5-91)

Sec. 146-285. Basement or excavation water, removal.

Any accumulation of water in an excavation or basement shall be removed by means other than draining to the sanitary sewer before the blind plug is removed.
(Ord. No. 16388, § 7.14, 11-5-91)

Sec. 146-286. Dilution of discharges.

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment in order to achieve compliance with the limitations contained in the federal categorical pretreatment standards or in any other pollutant-specific limitation developed by the city or state.

(Ord. No. 16388, § 7.15, 11-5-91)

Sec. 146-287. Monitoring facilities.

(a) When required by the city, the owners of any property served by the sewage collection system shall install a suitable control manhole for sampling and measuring devices, if necessary, to facilitate observation, measurement and sampling of the wastewater. Such manhole shall be accessible, safely located and shall be constructed in accordance with the department's requirements and all applicable local agency construction standards of quality. The cost of construction of the manhole and installation of the measuring and sampling accessories shall be at the expense of the owner.

(b) There shall be ample space in or near each sampling manhole to allow accurate collection in compositing of the wastewater samples for analysis. The measuring equipment and accessories shall be made available for use of department personnel on request at no expense to the city. When specialized equipment is required to collect the samples of wastewater from the manhole because of the peculiar characteristics of the individual manhole, the user shall make the equipment available to department personnel upon request at no expense to the city. There shall be no restrictions on the sharing of the sampling and measuring equipment in the sampling manholes of the different users nor upon the users' right to contract with an independent firm to perform this service.

(c) If a water supply is used other than the city water supply, the city may require that such meters as are deemed necessary by the city be installed on such supplemental water supply. During the period of installation of additional equipment, manholes, etc., the city shall estimate as accurately as possible the volume and strength of the wastewater.

(d) The monitoring facility should normally be situated on the user's premises, but when such a location would be impractical or cause undue hardship on the user, the water pollution control division may recommend to the director of public works that the user be allowed to construct the facility in the public right-of-way and locate it so it will not be obstructed by landscaping or parked vehicles. Construction shall be completed within a specified time following written notification by the department.

(e) It shall be unlawful for any person to cover up or bury any existing manhole cover with dirt, rock, surfacing, bituminous surfacing, concrete or other material or obscure the location so that the manhole cannot be found or is not accessible for sewer maintenance. Cost of regrading or rebuilding the manhole, including resurfacing of the adjacent street or alley, may be charged to the person responsible.

(Ord. No. 16388, § 7.16, 11-5-91)

Sec. 146-288. Pretreatment.

Users shall make wastewater acceptable under the standards established in this article before discharging to any sanitary sewer. Any facility required to pretreat wastewater to a level acceptable to the water pollution control division shall be provided and maintained at the user's expense. Detailed plans showing the pretreatment

facilities and operating procedures shall be made available to the division for inspection. The division will not review or approve plans and operating procedures. It is the user's sole responsibility to modify the facility as necessary to produce an effluent acceptable to the division under the provisions of this article or any regulations established by the division. Any subsequent changes in the facilities or methods of operation shall be reported to the division prior to changes in the facilities or methods of operation.
(Ord. No. 16388, § 7.17, 11-5-91)

Sec. 146-289. Accidental discharges and/or slug loads.

(a) Each discharger shall provide protection from accidental discharge and/or slug loads of prohibited materials or other wastes regulated by this article. Users shall submit oral notice to the water pollution control division within 24 hours from the time the user becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain:

- (1) A description of the bypass and its cause;
- (2) The duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and
- (3) Steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass.

(b) The notification required by this section will not relieve users of liability for any expense, loss or damage to the sewer system, treatment plant or treatment process, or for any fines imposed on the water pollution control division on account thereof by any public, state or federal agency.

(c) The water pollution control division may issue various notices and information directed towards more effective water pollution control. Such notices and information shall be made available to employees of the user for their information and to solicit their cooperation. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of this article.

(d) Any possible connection or entry point for a persistent or deleterious substance to be discharged to the user's plumbing or drainage system shall be appropriately labeled to warn operating personnel against discharge of such substance in violation of this article.

(e) In any case where an industrial user knows in advance of the need to bypass and/or discharge a slug load, it shall submit prior notice to the division of water pollution control at least ten days before the date of bypass.

(f) Upon the request of the superintendent, any industrial user may be required to submit to the division of water pollution control a slug control plan. The plan shall contain, at a minimum, the following elements:

- (1) Description of discharge practices, including nonroutine batch discharges;

- (2) Description of stored chemicals; and
- (3) Procedures for immediately notifying the water pollution control division of slug discharges, including any discharge that would violate a prohibition of this article, with procedures for followup written notification within five days.

(Ord. No. 16388, § 7.18, 11-5-91)

Secs. 146-290--146-300. Reserved.

DIVISION 6.

WASTEWATER DISCHARGE PERMIT

Sec. 146-301. When required.

All users in any of the following categories are hereby defined as significant industrial users, and shall be required to obtain a wastewater discharge permit before connecting to or discharging into a sanitary sewer:

- (1) Users whose average wastewater strength cannot be established because of seasonal or other variations and/or operations.
- (2) Users whose wastewater strength exceeds the normal range of wastewater strength.
- (3) Users using an unmetered source of water.
- (4) Users who fall under those guidelines set forth for federal categorical industries.
- (5) Users discharging an amount greater than 25,000 gallons per day of process wastewater for any day during the preceding 12-month period.
- (6) Users whose average discharge, measured either by volume of flow, weight of suspended solids, biochemical oxygen demand or chemical oxygen demand, exceeds two percent of the average loading on the applicable treatment facility.
- (7) Other users determined by the superintendent to require special regulation or source control.

(Ord. No. 16388, § 8, 11-5-91)

Sec. 146-302. Optional permits.

(a) The superintendent of the water pollution control division may issue a wastewater discharge permit to any user in accordance with the terms of this division in the following categories:

- (1) A user who requires an estimation of wastewater flow by the water pollution control division.
- (2) Any person whose wastewater strength is less than the normal range of wastewater strength because of pretreatment, process changes or other reasons.

- (3) Any user identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions:

Division A--Agriculture, Forestry and Fishing.

Division B--Mining.

Division D--Manufacturing.

Division E--Transportation, Communications, Electric, Gas, and Sanitary Services.

Division I--Services.

(b) A user in the divisions listed in subsection (a) may be excluded if it is determined that they will introduce only segregated domestic wastes or wastes from sanitary conveniences.
(Ord. No. 16388, § 8.1, 11-5-91)

Sec. 146-303. Application.

Users seeking a wastewater discharge permit shall complete and file with the superintendent an application in the form prescribed by the superintendent and accompanied by the applicable fees. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

- (1) Name and address of applicant.
- (2) Volume of wastewater to be discharged.
- (3) Constituents and characteristics of strength of the wastewater, including but not limited to those contained in the section concerning unlawful waste discharge and the section concerning limitations on wastewater strength.
- (4) Time and duration of discharge.
- (5) Average and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.
- (6) A plat showing location and size of building sewers, sampling points, pretreatment facilities, public sewer and other pertinent details.
- (7) General description of activities, facilities and plant processes on the premises, including either the principal product and the quantity per day produced or the principal raw material and the quantity per day consumed.
- (8) The standard industrial classification rating describing the applicant's facilities.

- (9) Number of employees and hours of work.
- (10) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.
- (11) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment; the completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
 - a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - b. No increment referred to in subsection (11)a shall exceed nine months.
 - c. The user shall submit a progress report to the water pollution control division no later than 14 days following each date in a compliance schedule, and on the final date for compliance, the user shall submit a progress report to the superintendent including, as a minimum, whether or not the user complied with the increment of progress to be met on such date and, if not, the date on which the user expects to comply with the increment of progress, the reason(s) for the delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the superintendent.
- (12) A certification statement by an authorized representative of the industrial user in accordance with 40 CFR 2403.12(l).

(Ord. No. 16388, § 8.2, 11-5-91)

Sec. 146-304. Evaluation and acceptance.

The superintendent will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the superintendent shall issue a wastewater discharge permit subject to terms and conditions provided in this division, provided that the permit applicant meets all the required criteria.

(Ord. No. 16388, § 8.3, 11-5-91)

Sec. 146-305. Conditions.

- (a) Wastewater discharge permits shall be expressly subject to all provisions of this article and all

other regulations, rates and charges established by the department. Permits may contain the following:

- (1) The unit charge or schedule of service charges and fees for the wastewater to be discharged to the sanitary sewer.
- (2) The average and maximum strength, characteristics or constituents of the user's wastewater discharge in accordance with general pretreatment standards, categorical pretreatment standards, local limits and state and local law.
- (3) Limits on rate and time of discharge or requirements for flow regulation and equalization.
- (4) Installation of inspection and sampling facilities including city access to such facilities.
- (5) Pretreatment requirements.
- (6) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards of tests and reporting schedule; methods of sampling and analysis are to comply with federal regulations contained within 40 CFR 136 of the Federal Register.
- (7) Submission of technical reports or discharge reports.
- (8) Maintaining plant records relating to wastewater discharge as specified by the department, and affording department access thereto.
- (9) Other conditions as necessary to ensure compliance with this article and all other regulations established by the city, as a result of state or federal laws.
- (10) When nonbiodegradable toxicants are proposed or present in the user's wastewater discharge, discharge rates shall be specified in the permit. Pretreatment or control of nonbiodegradable toxicants to conform to the discharge rates as prescribed shall be achieved at or as near to the source of discharge as practicable.
- (11) The inclusion of a compliance schedule for the purpose of obtaining the technology needed to achieve the required discharge status from the industrial user.
- (12) Statement of applicable penalties in the event of noncompliance.

(b) The superintendent may change the conditions of a wastewater discharge permit from time to time as laws and regulations enacted by the state or federal government may require. Whenever the discharge from any user is causing excessive operation or maintenance problems in the sewage collection system or the wastewater treatment plant, the superintendent may change the conditions of that wastewater discharge permit to alleviate the problem. The superintendent may allow a user reasonable time to comply with any division required changes in the permit, provided that such changes are not in conflict with changes required by the state or federal government. The time allowed for such compliance would be consistent with time limitations imposed upon the city by regulatory agencies.

(c) All industrial users shall promptly notify the division of water pollution control in advance of any substantial change. A substantial change shall consist of ten percent in wastewater volume or character of pollutants in the discharge, including the listed characteristic hazardous wastes for which the industrial user has submitted notification in 40 CFR 403.12(p). A change in the wastewater strength shall immediately effect recalculation of the wastewater service charges and fees.

(d) The conditions in wastewater discharge permits shall be enforced by the superintendent in accordance with the provisions of this article and any regulations established by the division of water pollution control. Any discharger who exceeds the conditions of the permit will be subject to the enforcement provisions set forth in this article.

(Ord. No. 16388, § 8.4, 11-5-91)

Sec. 146-306. Permit modifications to comply with new pretreatment standards.

(a) Within 90 days of the promulgation of a national categorical pretreatment standard, the permit of a user subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by the outlined regulations for such standard. Where a user subject to a national categorical pretreatment standard has not previously submitted an application for a permit as required by this article, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to the division of water pollution control within 180 days after the promulgation of the applicable federal categorical pretreatment standard the information required by this article.

(b) A wastewater discharge permit shall be modified by the superintendent to include compliance schedules or to change limits, sampling locations, or any other conditions in the permit if in the opinion of the superintendent such changes are necessary for any reason in the operation of the POTW.

(Ord. No. 16388, § 8.5, 11-5-91)

Sec. 146-307. Duration.

Permits issued under this division shall be for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the superintendent during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(Ord. No. 16388, § 8.6, 11-5-91)

Sec. 146-308. Transfer.

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the prior approval of the superintendent. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(Ord. No. 16388, § 8.7, 11-5-91)

Sec. 146-309. Duties of superintendent.

It shall be the duty of the superintendent of the water pollution control division or his designated representative to make such inspections and tests as deemed reasonably necessary to determine compliance with the provisions of this division, and the superintendent may cause the owner of any property connected to a public sanitary sewer receiving the discharge of industrial or commercial waste from any premises to install and maintain such devices and treatment facilities as may be necessary to prevent the discharge of all harmful wastes and substances as provided by this division.

(Ord. No. 16388, § 8.8, 11-5-91)

Sec. 146-310. Inspection and sampling.

The water pollution control division may inspect the facilities of any user to ascertain compliance with all specified requirements. Persons or occupants of premises where wastewater is created or discharged shall allow the division or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and record copying or in the performance of any of their duties. The city, state and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, state or EPA will be permitted to enter without delay for the purposes of performing their specific responsibilities.

(Ord. No. 16388, § 8.9, 11-5-91)

Sec. 146-311. Trade secrets.

(a) Information and data on a user, except that which is entitled to protection as a trade secret, obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public without restriction. Trade secrets which must be divulged by the user for the effective implementation of this article may be submitted separately from any other information required under this article, and, if so submitted, shall be captioned by the user, "TRADE SECRET." Trade secrets shall be maintained by the division in a locked and secure manner. It shall be the division's responsibility to establish a system of limited access to trade secrets so as to eliminate the possibility of public disclosure.

(b) No person while an official or employee of the city, or thereafter, shall use to their own advantage, or reveal, other than to the authorized representatives of the United States government, the state, or other government, in their official capacity, or as ordered by a court in a judicial proceeding, any information acquired under the authority of this article concerning any matter which is entitled to protection as a trade secret. Wastewater constituents and characteristics will not be recognized as confidential or subject to the trade secret limitations.

(Ord. No. 16388, § 8.10, 11-5-91)

Sec. 146-312. Reporting requirements.

(a) *Baseline monitoring report.* Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a categorical determination, industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit a report which contains the following information:

- (1) Identifying information including the name and address of the facility with the name of the operators and owners.
- (2) A list of environmental control permits held by the user.
- (3) A brief description of the nature, average rate of production, and standard industrial classification carried out by the user.
- (4) Flow measurements showing the measured average and maximum daily flow.
- (5) Measurements of pollutants identifying the pretreatment standards applicable to each regulated process.
- (6) Certification statement reviewed by an authorized representative of the industrial user as outlined in 40 CFR 403.12(l).
- (7) Compliance schedule if additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards.
- (8) Such report shall also contain a certification statement by an authorized representative.

(b) *Ninety-day compliance report.* Within 90 days following the date of final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater to the POTW, any user subject to the pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for the process units in the user's facility which are limited by such pretreatment standards and requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis, and if not, what additional operations and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall meet the signatory requirements of 40 CFR 403.12(l).

(c) *Periodic compliance reports.*

- (1) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge of waste to the POTW, shall submit to the superintendent reports as required by the permit. Such reports shall also contain a certification statement by an authorized representative. In no case will the report cover a period in excess of six months for categorical industries.
- (2) Significant noncategorical industrial users shall submit to the water pollution control division at

least once every six months a description of the nature, concentration and flow of the pollutants required to be reported in accordance to the wastewater treatment discharge permit issued.

(Ord. No. 16388, § 8.11, 11-5-91)

Sec. 146-313. Notice of hazardous waste discharge.

The industrial user shall notify the division of water pollution control, the EPA regional waste management division director and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kg of such wastes per calendar month, the notification shall also contain the following information, to the extent such information is known and readily available to the industrial user:

- (1) An identification of the hazardous constituents contained in the wastes, and estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and
- (2) An estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months.

(Ord. No. 16388, § 8.12, 11-5-91)

Sec. 146-314. Recordkeeping.

Records shall be kept by the user for a period of at least five years.

(Ord. No. 16388, § 8.13, 11-5-91)

Secs. 146-315--146-325. Reserved.

DIVISION 7.

SEPTIC TANK TRUCK OPERATORS*

* **Cross References:** Septic tank cleaners, § 30-261 et seq.; hauling of stable manure, offal, house refuse, night soil or dead animals on Kansas Avenue, § 54-5.

Sec. 146-326. Liquid waste haulers, discharge permit required.

Any liquid waste hauler desiring to discharge liquid waste into wastewater disposal facilities of the city shall be required to obtain a liquid waste discharge permit from the WPC for each vehicle owned or operated by the liquid waste hauler prior to discharge.

(Ord. No. 16388, § 10, 11-5-91; Ord. No. 17429, § 2, 11-16-99)

Sec. 146-327. Liquid waste discharge permit application, application fee.

Applications for a liquid waste discharge permit shall be made to the WPC and shall contain the following information:

- (1) Name and address, including business address of liquid waste hauler.
- (2) Quantity, capacity, license plate number, and type of all vehicles operated by hauler, for the purpose of hauling liquid waste.
- (3) Types of materials pumped by hauler including a waste characterization profile on each type of material.
- (4) Proof of insurance in the following types and amounts:
 - a. Bodily injury, nonvehicular: \$300,000.00 each occurrence.
 - b. Property damage, nonvehicular: \$100,000.00 each occurrence.
 - c. Automobile insurance: \$100,000.00 single occurrence, \$300,000.00 aggregate, \$50,000.00 property damage.
- (5) Any other information deemed necessary by the superintendent of the WPC in order to review the application.

An application must be accompanied by the appropriate fee before it will be considered by the superintendent. Permit application fees are as follows:

- (1) Payment of a \$50.00 application fee (non-refundable), for those haulers operating only within Shawnee County, shall accompany the application in addition to a \$20.00 permit fee per vehicle.
- (2) Payment of a \$100.00 application fee (non-refundable), for any hauler operating outside Shawnee County, shall accompany the application in addition to a \$20.00 permit fee per vehicle.

The superintendent may issue a permit if after review of the application, the superintendent finds:

- (1) The liquid waste is domestic generated waste or commercial/food waste with the exception of grease trap waste; and
- (2) The liquid waste may be discharged into the WPC disposal facility without causing passthrough or interference; and
- (3) The liquid waste meets all applicable federal, state, and city requirements. Any permit issued shall be valid for a period of one year following issuance.

(Ord. No. 16388, § 10.1, 11-5-91; Ord. No. 17429, § 3, 11-16-99)

Sec. 146-328. Reserved.

Editors Note: Ord. No. 17429, § 7, adopted Nov. 16, 1999, repealed § 146-328 in its entirety. Formerly, said section

pertained to dumping of industrial waste--When lawful. See the Code Comparative Table.

Sec. 146-329. Reserved.

Editors Note: Ord. No. 17429, § 8, adopted Nov. 16, 1999, repealed § 146-329 in its entirety. Formerly, said section pertained to dumping of industrial waste--Receipt to be shown. See the Code Comparative Table.

Sec. 146-330. Reserved.

Editors Note: Ord. No. 17429, § 9, adopted Nov. 16, 1999, repealed § 146-330 in its entirety. Formerly, said section pertained to dumping fee. See the Code Comparative Table.

Sec. 146-331. Control authority.

Liquid waste haulers shall be subject to the conditions of a liquid waste hauler permit as set forth herein. Administration of liquid waste hauler ordinances shall be the responsibility of the Water Pollution Control Division (WPC), Department of Public Works.

(Ord. No. 17429, § 1, 11-16-99)

Editors Note: Ord. No. 17429, § 1, adopted Nov. 16, 1999, did not specifically amend the Code; hence, inclusion as § 146-331. See the Code Comparative Table.

Sec. 146-331.5. Definitions.

[The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Liquid waste hauler means any person, persons, partnership or corporation which transports liquid, nonhazardous waste of domestic origin.

Nonhazardous waste means waste not listed under 40 C.F.R. § 261.
(Ord. No. 17429, § 1, 11-16-99)

Editors Note: Ord. No. 17429, § 1, adopted Nov. 16, 1999, did not specifically amend the Code; hence, inclusion as § 146-331.5. See the Code Comparative Table.

Sec. 146-332. Permit, conditions, renewal.

Any liquid waste discharge permit may include conditions imposed by the superintendent of the WPC in order to assure compliance with federal pretreatment standards, applicable state regulations and city regulations. Conditions which may be imposed include, but are not limited to, the following:

- (1) Liquid waste which violates any prohibited discharge standard of the general pretreatment regulations, 40 C.F.R. 403.5(b) or any local limit is prohibited.
- (2) Liquid waste which contains hazardous waste is prohibited.
- (3) Liquid waste from commercial or industrial grease traps is prohibited.

Liquid waste discharge permits shall not be transferred, assigned or sold. Application for renewal of a discharge permit shall be made to the superintendent of the WPC 30 days prior to the expiration date contained on the permit.

(Ord. No. 17429, § 4, 11-16-99)

Sec. 146-333. Liquid waste discharge location, fees, manifest.

The superintendent of the WPC shall designate the disposal facility to receive permitted liquid waste. Disposal of liquid waste at any location or site other than the designated disposal facility is prohibited. The superintendent also shall designate the hours of operation of the disposal facility and establish procedures by which the disposal facility may be used. Disposal of liquid waste at any other time than the designated hours of operation or in violation of the established procedures of usage is prohibited.

The disposal charge for liquid waste shall be calculated at a rate of \$16.00/1,000 gallons through December 31, 2000. Effective January 1, 2001, the disposal charge will be calculated at a rate adjusted to the current documented waste strength. The disposal charge will be evaluated every two years thereafter and adjusted, if necessary, to reflect changes in the excess strength commercial rate charge, the current documented waste strength, and the WPC's percent of expenses related to treatment of the liquid waste. Such charge will be billed by the WPC and payable on a monthly basis.

Each liquid waste load which is presented for discharge shall be accompanied by a load manifest on forms prepared by the WPC which contains the following information:

- (1) Permit holder name, permit number and truck license number.
- (2) Originating location of liquid waste.
- (3) Volume of liquid waste pumped.
- (4) Liquid waste characterization (i.e. industrial/domestic waste).
- (5) Signature and telephone number of a legal representative of the waste generator certifying to the above information.
- (6) Signature of liquid waste hauler certifying the above information to be true and accurate.

A manifest shall be prepared for each location where the hauler receives liquid waste. Failure to present the manifest to the WPC at the time of discharge shall be cause to deny access to the designated disposal facility. Manifest records shall be maintained by the hauler for a period of three years.

(Ord. No. 17429, § 5, 11-16-99)

Sec. 146-334. Discharge of contents from holding tanks.

The contents from holding tanks of domestic waste only shall be allowed with the approval of the superintendent or designee, at a rate of \$15.00 per 1,000 gallons discharged. Holding tank waste shall be accompanied by a manifest which has been signed by the generator. There shall be no mixing of holding tank wastewater with waste of any other type. A holding tank is defined as a non-discharging, storage structure for sanitary wastewater of domestic origin with no connection to a lateral field or any other type of discharge point from the storage tank.

(Ord. No. 17429, § 6, 11-16-99)

Sec. 146-335. Change in liquid waste profile.

A permitted waste hauler shall notify the superintendent of the WPC at least seven days prior to any planned significant change in waste profile. In the event a liquid waste hauler desires to discharge industrial liquid waste then the hauler shall contact the WPC for a separate permit and rate schedule. Any industrial waste shall meet categorical pretreatment standards, if applicable.

(Ord. No. 17429, § 10, 11-16-99)

Sec. 146-336. Rights of refusal.

Notwithstanding any provision to the contrary, the superintendent of the WPC or designee of the superintendent may refuse any liquid waste load. Further, the superintendent may order the testing of the waste load by the hauler prior to

disposal. Designated staff of the WPC may also conduct sampling of any liquidwaste to confirm compliance with the permit.

(Ord. No. 17429, § 11, 11-16-99)

Sec. 146-337. Enforcement.

Any liquid waste hauler permit may be revoked by the superintendent of the WPC upon the occurrence of any of the following:

- (1) Failure to pay disposal charges for a period of 60 days.
- (2) Failure to provide or maintain manifest records.
- (3) Submission of inaccurate or false information concerning waste characterization.
- (4) Attempted disposal or disposal of hazardous waste.
- (5) Disposal of waste into the city's system at any site other than the designated site.

(Ord. No. 17429, § 12, 11-16-99)

Sec. 146-338. Liquid waste hauler; regulatory penalty.

If any public state or federal agency imposes or threatens to impose any penalty upon the WPC, the superintendent will immediately notify the person(s) or agency reasonably believed to be causing the WPC to be in violation by virtue of their discharge to the city sewer. If a penalty is subsequently assessed against the WPC, the person(s) or agency causing the WPC to be in violation shall be held liable for the penalty. All fines imposed as a result of a violation of this article shall be paid by the person(s) or agency causing the violation to the city and credited to the WPC.

(Ord. No. 17429, § 13, 11-16-99)

Sec. 146-339. Liquid waste hauler; damage to facilities.

When it has been determined that a discharge of waste causes an obstruction, damage, or any other impairment to the wastewater disposal facilities, the WPC may assess a charge for the work required to clean or repair the facility against the liquid waste hauler responsible for the discharge.

The repairs may be made by a private contractor or by personnel of the WPC at the option of the superintendent of the WPC. Where applicable, the WPC may add such charge to the liquid waste hauler's wastewater service charges.

(Ord. No. 17429, § 14, 11-16-99)

Sec. 146-340. Liquid waste hauler; criminal.

Any person found to discharge at the WPC disposal facility any waste not compatible with this division shall be in violation of this division and guilty of a misdemeanor.

(Ord. No. 17429, § 15, 11-16-99)

DIVISION 8.

SEWAGE CONNECTION AND DISPOSAL CHARGES

Sec. 146-341. Connection fees and monthly rates/charges established.

(a) Rates and charges for customers inside/outside the city operating under the terms of this division for sewer maintenance, sewage transportation, and sewage treatment shall be as now or hereafter established by ordinance of the city and such rates shall be sufficient to pay costs and expenses of the following three (3) general classifications:

- (1) Sewage disposal and treatment; and
- (2) Sewage transportation; and
- (3) Sewer operation and maintenance.

All such rates shall be reviewed at least every five (5) years or more frequently at the discretion of the city, except rates for sewage disposal and treatment which rates shall be reviewed, altered, or amended as other rates within the city limits.

(b) At the discretion of the city manager or city council, the connection fees listed in this section may be waived for economic development projects which, due to their unusual nature or magnitude, offer extraordinary benefits to the community. The city manager may waive up to twenty-five percent (25%) of the fees. City council approval shall be required for approval for any waiver in excess of twenty-five percent (25%).

(c) The public works director shall determine the system connection fee for each consumer making application for a new service connection. The system connection fee shall be paid prior to connection as part of the application process. Such system connection fees shall be based on the system's value, total capacity, and

associated water meter size. Applications for sewer connections for which there is no associated water service application shall have a sewer connection fee which is calculated on the basis of projected flows from other sources approximating the water service size. System connection fees are in addition to other rates, charges, deposits, or fees established by law. The system connection fees for all classifications and meter sizes shall be paid prior to connection. These fees shall include all materials and labor by city personnel.

The system connection fees for meters larger than eight (8) inches shall be determined by the public works director based on projected flows.

(d) The following are established as the monthly sewer rates and charges to be paid to the city for discharging wastewater into the sanitary sewer system for bills rendered on or after January 1, 2004:

- (1) *Residential and multifamily residences.* The rate shall be based on a calculated average water volume determined in accordance with Topeka City Code §§ 146-137 and 146-142 for water used in the months of December, January, and February. The average water volume determined by this method shall be referred to as the three (3) month winter average. The three (3) month winter average water volume shall be recalculated each year following the three (3) month winter period and shall be in effect for the following twelve (12) month period. For a customer who has not established an average, the charge shall be the average of the residential three (3) month winter average for the applicable meter reading route.
- (2) *Commercial and industrial.* The volume shall be based on the lesser of water volumes determined in accordance with Topeka City Code section 146-137 or actual metered sewer discharges. Credit shall be given for those metered flows which do not enter the sewer collection system. Those customers who discharge wastewater with a biological oxygen demand in excess of three hundred (300) milligrams per liter and/or suspended solids in excess of three hundred (300) milligrams per liter will be assessed the excess strength charge in accordance with the schedule of rates and charges in this subsection.

(3) *Schedule of rates and charges.*

	May 1, 2008	Jan. 1, 2009	Jan. 1, 2010	Jan. 1, 2011
a. Inside city (per 1,000 gallons)				
Domestic strength wastewater:				
First 1,500 gallons (minimum)	\$14.85	\$14.85	\$14.85	\$14.85
Over 1,500 gallons, per Mgal	3.43	3.57	3.71	3.86
Excess strength charges (a):				
BOD, per mg/l per Mgal	0.001921	0.001998	0.002078	0.002161
Suspended solids, per mg/l per Mgal	0.001219	0.001268	0.001318	0.001371
b. Outside city:				
Domestic strength wastewater:				
First 1,500 gallons (minimum)	\$26.00	\$26.00	\$26.00	\$26.00

Over 1,500 gallons, per Mgal	6.00	6.25	6.50	6.75
Excess strength charges (a):				
BOD, per mg/l per Mgal	0.003362	0.003497	0.003637	0.003782
Suspended solids, per mg/l per Mgal	0.002133	0.002219	0.002307	0.002399

(4) *Adjustment of bills.* The monthly rate and charge on a bill may be adjusted administratively by the water pollution control division to the actual or estimated volume or strength provided a significant change from normal conditions of discharge of waste or strength during the billing period can be demonstrated. In no event shall an adjusted monthly charge be less than the minimum rate as established in this section.

(5) *Implementation.* Rates and charges shall become effective with bills rendered on or after the effective dates shown in the schedule of rates and charges.

(Code 1981, § 44-295; Ord. No. 18272, § 7, 6-22-04; Ord. No. 18477, § 25, 7-12-05; Ord. No. 19074, § 8, 4-15-08, eff. 4-24-08)

Sec. 146-342. Calculation of charges and classification of users.

All industrial users shall be classified by assigning each one to a standard classification category according to the principal activity conducted on the premises. The purpose of such classification is to facilitate the regulation of wastewater discharges based on quality, quantity, and rate of flow to provide an effective means of source control, and to establish a system of wastewater service charges and fees which will ensure an equitable recovery of the city's cost. The elements of quality may include but are not limited to the following: Suspended solids, BOD, COD, oil and grease, and chlorine demand.

(Code 1981, § 44-296; Ord. No. 18272, § 8, 6-22-04)

Sec. 146-343. Standard classification charges.

(a) For the purpose of calculating wastewater service charges, the minimum standard classification charge shall be based upon the average strength of domestic wastewater, and for this purpose the average strength of domestic wastewater is hereby defined as containing not more than the following:

300 mg/l suspended solids (SS)

400 mg/l chemical oxygen demand (COD)

300 mg/l biochemical oxygen demand (BOD)

50 mg/l oil and grease (O&G) (animal or vegetable origin)

10 mg/l phosphorous (P)

30 mg/l Kjeldahl nitrogen

700 mg/l total solids (TS)

Additional elements of wastewater strength as may be deemed necessary by the director.

(b) Any person desiring to discharge wastewater to the city sewage collection system having a concentration greater than 300 mg/l suspended solids or 300 mg/l biochemical oxygen demand shall receive written permission from the director before allowing such discharge.

(Ord. No. 18272, § 9, 6-22-04)

Sec. 146-344. Special treatment conditions.

Any stronger sewage or sewage objectionable because of interference with the normal biological treatment processes of the plant is subject to acceptance by the city upon terms worked out between the city and the proposed customer seeking an outlet for strong sewage wastes.

(Code 1981, § 44-299)

Sec. 146-345. Special metering conditions.

(a) Whenever, due to unusual conditions, the amount of water consumed and the amount of wastewater generated are significantly different, the owners of any property served by the wastewater collection system may make application to the water pollution control division to have their wastewater service charge calculated on the basis of wastewater generated in lieu of the volume of water consumed. This amount must be determined by one of the following methods:

- (1) Actual measurement of the wastewater discharged to the city sewer.
- (2) Measurement by a water meter of the water consumed that is discharged to the sanitary sewer.
- (3) Measurement by water meter of the water consumed that is not ultimately discharged to the sanitary sewer. The wastewater service charge shall then be based on the difference between the total water consumed and the amount not discharged to the sanitary sewer.

(b) Water that is used in a single-pass air conditioning cooling tower (no recirculation of cooling water) may be discharged to the storm sewer system. All water used in this method and disposed of in the storm sewer may be deducted from the water consumed to obtain a volume on which to charge wastewater service charges.

(c) Water that is used in a recirculating type air conditioning cooling tower may be deducted from the water consumed, provided that the amount of blow-down discharged to the sanitary sewer is measured or reasonably estimated and is not deducted from the water consumption, to determine the wastewater service charge.

(d) All costs associated with the installation and maintenance of metering facilities shall be the responsibility of the customer desiring the adjustment. Responsibility for obtaining and reporting monthly or

bimonthly meter readings, on a form supplied by the water pollution control division, will be the responsibility of the customer. Failure to report meter readings will be justification for eliminating the credit for water consumed but not discharged to the sanitary sewer.

(e) The water pollution control division will make an annual inspection of each metering facility to determine its suitability and the correctness of the meter reading.

(f) Contracts that were in effect at the time this section became effective will be allowed to expire. Exemption for water consumed but not discharged to the sanitary sewer, after the expiration date of the contract, will not be allowed except as measured in accordance with subsection (a).
(Code 1981, § 44-299.1)

Sec. 146-346. Rendering of bills.

The customer services office of the public works department shall render bills monthly to all persons whose premises are connected to the sanitary sewer system of the city. The customer service office shall not assume responsibility for speedy and safe delivery or the failure to receive such bills. A duplicate may be obtained by calling in person at the customer service office or by telephoning the office requesting a duplicate bill.
(Code 1981, § 44-300)

Sec. 146-347. Effective date for charges.

(a) The sewage service charge fixed by this division shall become effective with the first billing date for city water services. The following time schedule within a billing period shall determine the proportional part of the monthly or bimonthly rate that shall apply:

Length of service	Monthly percent	Bimonthly percent
0-- 7 days	0	0
8--15 days	50	25
16--30 days	100	50
31--45 days	--	75
46--60 days	--	100

(b) All persons whose premises are connected to the sanitary sewer during the time they receive water service shall pay a sewer service charge in accordance with the above schedule.
(Code 1981, § 44-301)

Sec. 146-348. Payment required; no discrimination.

No person shall be allowed the use of the sanitary sewers of the city without the payment of the sewage service charge, nor shall there be any discrimination among users of like classes as to rates.
(Code 1981, § 44-302)

Sec. 146-349. Sewage disposal system fund.

(a) All amounts billed and collected for sewage service charged by the department of finance and

revenue shall be segregated in a separate account designated as the sewage disposal system fund. This fund shall be used only for the purpose of paying the costs of the operation, maintenance and administration of the sewage treatment system of the city, for providing an adequate depreciation fund, and for paying the principal and interest of the revenue bonds issued and principal and interest of general obligation bonds now outstanding, which have heretofore been issued against the sewage treatment plant, as and when the principal and interest become due and payable according to the terms and conditions of the outstanding bonds.

(b) If there shall be any balance remaining in the fund after payment of the items provided in this section, then the balance may be used to pay the cost of extending and improving the sewage treatment system; provided, that there has been set aside therefrom an amount sufficient to pay one year's principal and interest on the revenue bonds issued under this article in addition to the current year's principal and interest.

(Code 1981, § 44-303)

Sec. 146-350. Certification of names of water users without sewage connection.

The superintendent of water pollution control shall certify to the director of public works, at least 30 days prior to the effective date of the sewage service charges fixed by this division, the names of all water users who do not have connections with sanitary sewers, and shall certify monthly thereafter the names of all persons who become users, whose premises are connected with a sanitary sewer system.

(Code 1981, § 44-304)

Sec. 146-351. Failure to pay bill.

(a) If a sewage service charge bill remains unpaid for a period of ten days after such bill has been mailed or delivered, water service may be discontinued and shut off. Before the water service shall be discontinued for failure to pay any sewage service charge, the person so defaulting in the payment of his service charge shall be mailed a three-day written notice of the intention of the city to shut off the water service. The city may collect the bill in lieu of water being turned off and the person shall pay a collection fee as provided for in section 146-149 for all trips to pick up payment of bills in lieu of water being turned off.

(b) If within the three-day period the person receiving notice of intention to discontinue water service shall file with the department of public works a written notice stating that the person believes that he has a just and reasonable complaint against the assessment of the sewage service charge, then the department shall, within ten days from the receipt of the written notice, schedule a hearing at the next scheduled council meeting, notifying the aggrieved party in writing at least three days before the date on which the meeting is to be held, and the aggrieved party may appear at the meeting and present the grievance.

(c) If at the meeting called under subsection (b) the council feels that the complaint of the aggrieved party is just, the council may make such adjustments of the sewage service charge as it deems equitable and just in the premises. If the council at the meeting deems the complaint of the aggrieved party is without merit, it may affirm the sewage service charge of which the aggrieved party complained, and the finding of the council shall be final and binding upon all parties concerned.

(Code 1981, § 44-305)

Sec. 146-352. Charges for restoring service.

If water service shall be discontinued under authority of this division, the water service shall not be restored until all bills have been paid and a delinquent service fee, as provided for in section 146-149, has been paid by the person whose water service has been turned off. Such delinquent service fee is to be retained by the water division, provided that the water pollution control division shall be responsible for remitting the appropriate fee to the water department if not collected from the person.
(Code 1981, § 44-306)

Sec. 146-353. Overpayment or underpayment.

(a) Whenever it is determined that a person has made an overpayment of a wastewater service charge, the city shall, at the city's option, make restitution or provide a credit to the customer; provided, that the city's liability for restitution or credit shall not extend more than two years immediately preceding the discovery of the overpayment.

(b) Whenever it is determined that a person is receiving or has received wastewater services from the city without the city's knowledge or without assessment by the city, or has been assessed less than the authorized amount, the city shall assess the customer a wastewater service charge in accordance with the authorized schedule of rates; provided, that the city shall be entitled to collect the charges for services received within the two years immediately preceding the discovery of the sewer connection, the lack of billing, or the improper billing.
(Code 1981, § 44-307)

Secs. 146-354--146-375. Reserved.

ARTICLE IV.

STORMWATER UTILITY*

* **Editors Note:** Ordinance No. 17059, §§ 1--12 repealed §§ 146-376--146-381, 146-396--146-400, 146-402 and §§ 13--21 of the same ordinance did not specifically add new sections, however such sections were treated as adding §§ 146-376--146-380, 146-396--146-400, 146-402--146-404. Formerly, §§ 146-376--146-381, 146-396--146-400, 146-402 pertained to similar provisions and derived from Ord. No. 16472, § 2--8, 7-10-92.

Cross References: Stormwater utility enterprise fund, § 2-560; floods, ch. 74.

DIVISION 1.

GENERALLY

Sec. 146-376. General.

The Federal Clean Water Act, 33 U.S.C. 1251 et seq., requires certain political entities, such as the city, to implement stormwater management programs within prescribed timeframes.

The environmental protection agency, pursuant to the Federal Clean Water Act, 33 U.S.C. 1251 et seq.,

has published rules for stormwater outfall permits. The state has adopted stormwater management legislation which encourages proper management of stormwater runoff and water quality.

The city desires to develop a stormwater utility to be responsible for the operation, construction and maintenance of stormwater devices; for stormwater system planning and for review of development plans for compliance with stormwater management codes.

The cost of operating and maintaining all stormwater management systems and the financing of existing and future necessary repairs, replacements, improvements, and extensions thereof, should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom.

The city has determined that the adoption of this article, and the creation of a stormwater utility, under the terms, conditions and criteria set forth hereunder, is necessary to protect the health, safety and welfare of the citizens, residents and inhabitants of the city.

(Ord. No. 17059, § 13, 12-17-96)

Sec. 146-377. Statement of intent.

The city declares its intention to be responsible for the operation, construction, maintenance and repair of stormwater system facilities and for stormwater system planning and management.

(Ord. No. 17059, § 14, 12-17-96; Ord. No. 17985, § 3, 3-25-03)

Sec. 146-378. Definitions.

For the purpose of this article, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

Appraisal district means the office of the county appraiser.

Bonds means revenue bonds, general obligation bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.

Costs of construction means costs reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including but not limited to the costs of:

- (1) Acquisition of all property, real or personal, and all interests in connection therewith including all right-of-way and easements therefor;
- (2) Physical construction, installation and testing, including the costs of labor, services, materials, supplies and utility services used in connection therewith;
- (3) Architectural, engineering, legal and other professional services;

- (4) Insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installations;
- (5) Any taxes or other charges which become due during construction;
- (6) Expenses incurred by the city or on its behalf with its approval in seeking to enforce any remedy against any contractor or subcontractor in respect of any default under a contract relating to construction;
- (7) Principal of and interest of any bonds; and
- (8) Miscellaneous expenses incidental thereto.

Debt service means, with respect to any particular fiscal year and any particular series of bonds, an amount equal to the sum of all interest payable on such bonds during such fiscal year, plus any principal installments of such bonds during such fiscal year.

Developed property means real property other than undisturbed property.

Director means the director of the department of public works or his or her designee.

Drainage fee means a fee authorized by state law and the ordinance which is established to pay operations and maintenance, extension and replacement and debt service.

Dwelling unit means a single unit or apartment providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Equivalent residential unit or *ERU* means the average impervious area of residential developed property per dwelling unit located within the city and as established by ordinance as provided in this article.

ERU rate means a drainage fee charged on each ERU as established by council ordinance as provided in this article.

Exempt property means public rights-of-way, public streets, alleys, sidewalks and drainage structures.

Extension and replacement means costs of extensions, additions and capital improvements to, or the renewal and replacement of, capital assets of, or purchasing and installing new equipment for, the system, or land acquisition for the system, and any costs related thereto, or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.

Fiscal year means a 12-month period commencing on January 1 of any year.

Impervious area means the number of square feet of hard surfaced areas which either prevent or retard the entry of water into the soil mantle, as it entered under natural conditions as undisturbed property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under

natural conditions as undisturbed property, including, but not limited to, roofs, roof extensions, patios, porches, driveways, sidewalks, pavement, graveled areas and athletic courts.

Nonresidential developed property means developed property that is classified by the appraisal district as state land use codes 170 and higher, as amended or supplemented, excluding that portion of land use code 199 to the extent used or usable for residential purposes.

Operating budget means the annual utility operating budget adopted by the city for the current fiscal year.

Operation and maintenance means the current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practices, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, the cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

Residential developed property means developed property which is classified by the appraisal district as land use codes 111 through 130 and 199, to the extent used or usable for residential purposes, using the state land use codes, as amended or supplemented, upon which there is located at least one dwelling unit.

Revenues means all rates, fees, assessments, rentals or other charges or other income received by the utility, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the city, all as calculated in accordance with sound accounting practice.

Stormwater management system or system means the existing stormwater management of the city and all improvements thereto which by this article constitute the property and responsibility of the utility, to be operated as an enterprise fund and, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharges from such system.

Stormwater utility or utility means the enterprise fund utility created by this article to operate, maintain and improve the system and for such other purposes as stated in this article.

Undisturbed property means real property which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or soils on the property.

(Ord. No. 17059, § 15, 12-17-96)

Cross References: Definitions generally, § 1-2.

Sec. 146-379. Findings, determinations and powers.

It is hereby found, determined and declared that those elements of the system which provide for the collection, treatment, storage and disposal of stormwater are of benefit and provide services to all property within the incorporated city limits, including property not presently served by the storm elements of the system.

The beneficiaries of the system include all real properties within the city which benefit by the provision, operation and improvement of the system. Such benefits may include, but are not limited to, the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazards to property and life resulting from stormwater runoff; improvements in general health and welfare through reduction of undesirable stormwater conditions; and improvements to the water quality in the stormwater and surface water system and its receiving waters. The utility, under the direction of the director thereof, shall have the power to:

- (1) Administer the acquisition, design, construction, maintenance and operation of the utility system, including capital improvements designated in the capital improvement program;
- (2) Administer and enforce this article and all regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the utility system including, but not limited to, the quantity, quality and/or velocity of the stormwater conveyed thereby;
- (3) Review private systems as necessary to determine the compliance of such systems with this article;
- (4) Advise the mayor, city council, city manager and other city departments on matters relating to the utility;
- (5) Prepare and revise a comprehensive drainage plan for adoption by the city council periodically;
- (6) Review plans and approve or deny, inspect and accept extensions and connections to the system;
- (7) Enforce regulations to protect and maintain water quality within the system in compliance with water quality standards established by state, regional and/or federal agencies as now adopted or hereafter amended;
- (8) Analyze the cost of services and benefits provided, and the system and structure of fees, charges, fines and other revenues of the utility annually.

(Ord. No. 17059, § 16, 12-17-96; Ord. No. 18477, § 26, 7-12-05)

Sec. 146-380. Operating budget.

The city shall adopt an operating budget for each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service.

(Ord. No. 17059, § 13, 12-17-96)

Secs. 146-381--146-395. Reserved.

DIVISION 2.

STORMWATER DRAINAGE FEE

Sec. 146-396. Fee established.

Subject to the provisions of this article, there is hereby imposed on each and every residential developed property and nonresidential developed property, other than exempt property, and the owners and nonowner users thereof, a stormwater drainage fee. In the event the owner and nonowner users of a particular developed property are not the same, the liability for each the owner and nonowner user for the drainage fee attributable to that developed property shall be joint and several. The drainage fee shall be a monthly service charge and shall be determined by the provisions of this article and the ERU and ERU rate.

(Ord. No. 17059, § 18(A), 12-17-96)

Sec. 146-397. Fee for residential developed property.

The drainage fee for residential developed property shall be the ERU rate multiplied by the number of individual dwelling units existing on the property. In the event of a newly constructed dwelling unit, the charge for the drainage fee attributable to that dwelling unit shall commence upon the issuance of the certificate of occupancy for that dwelling unit or final inspection by the division of building inspection or the commencement of water service, or in the event construction has been halted, then on the date the director or director's designee determines in his reasonable judgment that the impervious area of such development is substantially established.

(Ord. No. 17059, § 18(B), 12-17-96)

Sec. 146-398. Fee for nonresidential developed property.

(a) The drainage fee for nonresidential developed property shall be the ERU rate multiplied by the numerical factor obtained by dividing the total impervious area of a nonresidential developed property by the number of square feet in one ERU. The minimum drainage fee for any nonresidential developed property shall be equal to one ERU rate.

(b) In the event of newly developed nonresidential development property, the charge for the drainage fee attributable to that development shall commence, or increase in the case of additional development to property which is already developed property, upon the issuance of the certificate of occupancy for such additional development, or in the event that no certificate of occupancy will be issued for that development, or in the event development has halted, then on the date the director or the director's designee determines in his reasonable judgment that the impervious area of such development is substantially established.

(c) In the event of separately metered nonresidential developed property with joint users of common impervious areas, the director shall calculate and allocate the pro rata drainage fee among the users. Any owner or nonowner user disagreeing with the director's calculation or allocation may appeal such determination as provided in this division.

(Ord. No. 17059, § 18(C), 12-17-96)

Sec. 146-399. Dwelling unit and impervious surface calculation--Generally.

The director or director's designee shall initially, and thereafter as deemed reasonably necessary, determine the number of dwelling units located on residential developed property in order to establish the drainage fee provided by this division. Nonresidential real property in the city shall have its square footage

impervious area calculated in order to establish the drainage fee provided in this division. The director or director's designee shall make the calculation from such information and data deemed pertinent by the director or director's designee.

(Ord. No. 17059, § 18(D), 12-17-96)

Sec. 146-400. Same--Appeal.

Any person disagreeing with the calculation of the stormwater drainage fee, as provided in this division, or seeking a stormwater drainage fee adjustment based upon stormwater management practices, may appeal such fee determination to the director within 30 days from the date of the last bill containing stormwater drainage fee charges. Any appeal shall be filed in writing and shall include a survey prepared by a land surveyor showing dwelling units, total property area, impervious area or nonresidential developed area, as appropriate and a depiction of the stormwater management practices as appropriate. The filing of an appeal with complete information shall stay the payment of the stormwater drainage fee. Any person seeking a stormwater drainage fee adjustment based upon stormwater management practices shall be current in the payment of the stormwater drainage fee. The director may request additional information from the appealing party. Stormwater drainage fee adjustments for stormwater management practices may be considered for: reductions in stormwater release rates and provision of additional storage volume; reductions in runoff volume (including discharging to a non-city drainage system); and properly designed, constructed and maintained existing detention facilities. The maximum fee adjustment for internally drained areas or runoff reduced to zero is 40 percent. The maximum fee adjustment for drainage to a non-city system is 40 percent. The maximum fee adjustment for existing detention facilities meeting applicable city design standards and subject to proper maintenance and operation as determined by the city is 15 percent. The maximum fee adjustment for detention, discharge/volume improvements and operation and maintenance is 25 percent if the release rate is limited to the two-year predeveloped flow and 15 percent for 100-year storage volume. Based upon the information provided by the utility and the appealing party, the director shall make a final calculation of the stormwater drainage fee. The director shall notify the parties, in writing, of the director's decision.

(Ord. No. 17059, § 18(E), 12-17-96; Ord. No. 17134, § 1, 6-24-97)

Sec. 146-401. Reserved.

Editors Note: Ord. No. 18124, § 5, adopted Nov. 18, 2003, repealed § 146-401 in its entirety. Formerly, said section pertained to ERU, rate as enacted by Ord. No. 16473, §§ 1, 2, 7-10-92; as amended.

Sec. 146-402. Collection of fee.

(a) The drainage fee for all property shall be billed and collected monthly. All such bills for drainage fees shall be rendered monthly by the water division. The drainage fee for those properties utilizing city utilities is part of a consolidated statement for utility customers which is generally paid by a single payment. In the event that a partial payment is received, the payment shall be applied prorata to each account billed on the consolidated statement in the proportion that an individual account bears to the total consolidated statement of all current charges for all accounts. In the event of a partial month's service, the bill shall be calculated based upon the number of days served. All bills for drainage fees shall become due and payable upon receipt and may be collected as any other account due and owing to the city.

(b) Drainage fees shall be subject to a five percent per month, not to exceed 25 percent, late fee. The city shall be entitled to recover attorney's fees incurred in collecting delinquent drainage fees. Any charge due under this division which shall not be paid when due may be recovered in an action at law by the city. The

employees of the city shall, at all reasonable times, have access to any premises served by the city for inspection, repair or the enforcement of the provisions of this article.

(c) All drainage fees assessed pursuant to this article may be certified to the county clerk as a lien upon the property to which such fee is associated from the date such fee becomes due until such fee is paid. The owner of every building, premise, lot or house shall be obligated to pay the fee for all service provided to the premises, which obligation may be enforced by the city by action at law or by suit to enforce the lien, in the same manner as other taxes due and owing to the city. In the event of such action, the city shall be entitled to recover all court costs and reasonable attorney fees for such collection. In the case that a tenant in possession of any premises or buildings shall pay such fees, it shall relieve the landowner from such obligation and lien; but the city shall not be required to look to any person whatsoever other than the owner for the payment of such fees. No changes of ownership or occupation shall affect the application of this article, and the failure of any owner to be advised that he purchased property against which a lien for drainage fees exists shall in no way affect his responsibility for such payment.

(Ord. No. 17059, § 19, 12-17-96)

Sec. 146-403. Program responsibility.

It shall be the duty of the director of public works to administer the stormwater utility and the director may delegate such duty and responsibility within the department of public works as is necessary to carry out the provisions of this article. The department shall keep an accurate record of all persons using the services and facilities of such stormwater management system of the city and to make changes in accordance with the rates and charges established in this article.

(Ord. No. 17059, § 13, 12-17-96)

Sec. 146-404. Stormwater utility enterprise fund.

(a) All stormwater drainage fees collected by the city shall be paid into an enterprise fund which is hereby created, to be known as the "stormwater utility fund." Such fund shall be used for the purpose of paying the costs of operation, administration and maintenance of the stormwater drainage facilities of the city and to carry out all other purposes of the utility. To the extent that the stormwater drainage fees collected are insufficient to construct the needed stormwater drainage facilities, the cost of the same may be paid from such city fund as may be determined by the city council, but the city council may order the reimbursement of such fund if additional fees are thereafter collected. When the fund has surplus dollars on hand in excess of current needs, the surplus dollars will be invested to return the highest yield consistent with proper safeguards. Any interest earned on invested surplus dollars shall be placed in the stormwater utility fund.

(b) The fees and charges paid and other income received shall not be used for general or other governmental or proprietary purposes of the city, except to pay for the equitable share of the cost of accounting, management and government thereof. Other than as described above, the fees and charges shall be used solely for the purposes stated herein.

(Ord. No. 17059, § 21, 12-17-96)

Secs. 146-405--146-450. Reserved.

ARTICLE V.

SURFACE AND GROUND WATER QUALITY REGULATIONS*

* **Editors Note:** Ord. No. 17399, §§ 1--19, adopted Sept. 7, 1999, set out provisions for the regulation of the quality surface and ground water. This ordinance was not specifically amendatory of this Code; hence inclusion as art. V, §§ 146-451--146-469 was at the editor's discretion to read as herein set out. See the Code Comparative Table.

Cross References: Administration, ch. 2; buildings and building regulations, ch. 26; comprehensive zoning regulations, appendix c; environment, ch. 66; floods, ch. 74; planning, ch. 110; utilities, ch. 146;

Sec. 146-451. Statement of purpose.

The purpose of this article is to maintain and improve the quality of local surface water and ground water resources. The article incorporates citizen participation in furtherance of maintaining and improving the quality of such resources. The city finds it is in the public interest to prohibit contaminated stormwater runoff from industrial and construction sites, prohibit illicit discharges of pollutants into the municipal storm sewer system, and prevent eroded sediment from entering the city's storm sewer system through the adoption of these regulations.

(Ord. No. 17399, § 1, 9-7-99)

Sec. 146-452. Definitions.

The following terms, phrases and abbreviations when used in this article shall have the meanings ascribed to them in this section unless specifically stated otherwise.

Best management practices (BMP) means schedules of activities, prohibitions of practices, and maintenance procedures which prevent or reduce the pollution of the waters of the United States. Best management practices also include treatment requirements, operating procedures, and practices to control plant and construction site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Discharge means the addition or introduction of any pollutant, stormwater, or any other substance into the municipal separate storm sewer system (MS4) or into waters of the United States.

Final stabilization means the condition when all soil disturbing activities at a site have been completed, and a uniform, perennial vegetative cover with a density of 70 percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures such as the use of riprap, gabions, or geotextiles have been employed.

Hazardous substance means any substance listed in Table 302.4 of 40 C.F.R. Part 302.

Hazardous waste means any substance identified or listed as a hazardous waste by the United States Environmental Protection Agency pursuant to 40 C.F.R. Part 261.

Hazardous waste treatment, disposal, and recovery facility means all land and physical structures, other appurtenances and improvements on the land used for the treatment, disposal, or recovery of hazardous waste.

Notice of intent (NOI) means the form application used to apply for a permit to discharge stormwater

from either a construction site or industrial site.

Notice of termination (NOT) means the statement completed by either the construction or industrial site permittee which attests to either the completion of a project or the termination of permitted stormwater discharges from a site.

Municipal separate storm sewer system (MS4) means a system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains maintained by the city and designed for collecting or conveying stormwater, and which is not used for collecting or conveying sewage. The phrase is synonymous with municipal stormwater system.

NPDES general permit for stormwater discharges associated with industrial activity (or industrial general permit) means the industrial general permit issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 41304 on September 9, 1992, and any subsequent modifications or amendments thereto.

General NPDES permit for discharges of runoff from construction activities means the NPDES permit issued by the Kansas Department of Health and Environment on or after April 1996 for all construction sites of five acres or greater.

NPDES permit means a permit issued by the United States Environmental Protection Agency or by the Kansas Department of Health and Environment which authorizes the discharge of pollutants into waters of the United States, whether the permit is issued to an individual, group, or on a general area-wide basis.

Owner means the person or persons who, individually or taken together, either: have control over the facility operational specifications or construction site (including the ability to make modifications in specifications); or have the day-to-day operational control over those activities at the facility or construction site necessary to ensure compliance with pollution prevention requirements and any permit conditions.

Qualified personnel means persons who possess the appropriate skills and ability as demonstrated by sufficient education, training, experience, and/or, when applicable, any required certification or licensing to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally-accepted industry standards for such activity.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system or the waters of the United States.

Stormwater means water which results from storm runoff, snow melt runoff, and surface runoff and drainage.

Stormwater discharge associated with industrial activity means the discharge from any system which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant which is within one of the categories of facilities listed in 40 C.F.R. Part 122.26(b)(14), and which is not excluded from the United States Environmental Protection Agency's definition of the same term.

Storm water pollution prevention plan (SWP2 plan) means a plan required by either the Kansas Department of Health and Environment or the city which describes and ensures the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with construction activity or industrial activity.

Water quality standard means the criteria set by the Kansas Department of Health and Environment for individual pollutants based on different water uses within the State of Kansas.
(Ord. No. 17399, § 2, 9-7-99)

Sec. 146-453. Prohibition of illicit discharges into the municipal separate storm sewer system.

It shall be unlawful for any person to discharge or cause to be discharged, directly or indirectly, any of the following described waters or wastes into any public storm sewer:

- (1) Any material that would be normally discharged into the sanitary sewer, such as human or animal feces, urine, garbage or pretreated industrial wastes.
- (2) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, manure, leaves, grass clippings, construction material, sediment, oil, motor fluids, or any other solid viscous substance capable of causing obstruction to the flow in the storm sewer.
- (3) Any waters or wastes containing household hazardous waste or any other toxic or poisonous substance in sufficient quantity to injure or interfere with any biological life in the receiving waters, or cause a violation of water quality standards.
- (4) Any noxious or malodorous gas, flammable liquids or substances capable of creating a public nuisance.

Violation of this section shall be deemed a violation of the Code of the city and may be prosecuted as such in municipal court.

(Ord. No. 17399, § 3, 9-7-99)

Sec. 146-454. Exceptions.

The following described waters or wastes are considered exempt and may be discharged without being in violation of this article:

- (1) A discharge authorized by, and in full compliance with, an NPDES permit;
- (2) A discharge or flow of water resulting from fire fighting by a fire department which does not contain oil or hazardous substances or materials;
- (3) Agricultural stormwater runoff;
- (4) A discharge or flow of water from lawn watering, or landscape irrigation, or other irrigation

water;

- (5) A discharge or flow of water from a diverted stream flow or natural spring;
 - (6) A discharge or flow of water from uncontaminated, pumped ground water or rising ground water;
 - (7) Uncontaminated ground water infiltration as defined in 40 C.F.R. Part 35.2005(20) to the municipal storm sewer system;
 - (8) Uncontaminated discharge or flow of water from a foundation drain, crawl space pump, footing drain, or sump pump;
 - (9) A discharge or flow of water from a portable water source not containing any hazardous substance or material from the cleaning or draining of a storage tank or other container;
 - (10) A discharge or flow of water from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
 - (11) A discharge or flow of water from noncommercial car washing;
 - (12) A discharge or flow of water from a riparian habitat or wetland;
 - (13) A discharge or flow of water from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
 - (14) Stormwater runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber or filter or any other source of pollutant;
 - (15) Swimming pool water that contains no harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfecting of the swimming pool water or in pool cleaning.
- (Ord. No. 17399, § 4, 9-7-99)

Sec. 146-455. Reporting of accidental discharges into the municipal storm sewer system.

(a) Any owner of a facility, vehicle, or other source of a discharge into the municipal storm sewer system, or waters of the United States, other than stormwater shall immediately notify the director of public works and the fire chief concerning the incident. This shall include all substances as listed in 49 C.F.R Part 171 Hazardous Materials, 40 C.F.R. Part 302 Hazardous Substances, 40 C.F.R Part 355 Extremely Hazardous Substances, 40 C.F.R. Part 261.3 Hazardous Waste, and Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) Part 101 Biological Agents or Other Disease-Causing Agents. This shall further include releases of ten gallons or greater or releases in any amount that contains a reportable quantity of one or more of the listed substances.

(b) When notifying the director of public works and fire chief the owner reporting shall supply

information regarding the following:

- (1) What was released;
- (2) Location of release;
- (3) Time and duration of release;
- (4) Estimate of quantity of release;
- (5) Source of release;
- (6) Known or anticipated health risks associated with release;
- (7) Precautions needed as result of release;
- (8) Any steps that have been taken to contain and/or cleanup the release;
- (9) Names and telephone numbers of person or persons to be contacted for further information.

(c) Within 15 days following a release, the owner of the facility, vehicle or other source of the release must submit a written report containing information specified directly above and any additional information requested by the director of public works or fire chief.

(Ord. No. 17399, § 5, 9-7-99)

Sec. 146-456. Responsibility for costs of accidental discharge.

(a) Any person responsible for any release shall comply with all state, federal, and local laws requiring reporting, cleanup, containment and any other appropriate remedial action in response to the release. The person responsible shall reimburse the city for any cost it incurred responding to the release and that person shall take on full liability which may be imposed as a result of the release.

(Ord. No. 17399, § 6, 9-7-99)

Sec. 146-457. Construction sites of five acres or greater of total disturbed area.

The owner, contractor, or subcontractor who is undertaking any construction activity which disturbs five or more acres of total land area shall:

- (1) Apply to the State of Kansas for a General NPDES permit for discharges of stormwater runoff from construction activities.
- (2) Apply for any and all other city applicable permits.

In addition, any contractor or subcontractor who is undertaking a public improvement shall:

- a. Incorporate a stormwater pollution prevention plan into project specifications.

- b. Submit a copy of the notice of intent (NOI) submitted to the State of Kansas to the department of public works engineering division of the city with project plans and specifications.
- c. Submit a copy of the notice of termination (NOI) submitted to the State of Kansas to the department of public works engineering division of the city after final stabilization of the site.

In addition, an owner, contractor, or subcontractor undertaking a private improvement shall:

- a. Submit a copy of the notice of intent (NOI) submitted to the State of Kansas to the department of public works development services division of the city 30 days prior to groundbreaking.
- b. Implement stormwater pollution prevention plan according to State of Kansas guidelines.
- c. Submit a copy of the notice of termination to the department of public works development services division of the city upon completion of project (final stabilization).

Each construction site owner, contractor, and subcontractor will be fully responsible for the proper implementation of the state required stormwater pollution prevention plan from pre-construction to final stabilization of the construction site.

(Ord. No. 17399, § 7, 9-7-99)

Sec. 146-458. Construction sites of less than five acres but greater than one acre of total disturbed area.

A city permit for construction activity shall be required for any clearing, grading, excavation or construction of less than five acres but greater than one acre in an area. It is a violation of municipal code to proceed with clearing, grading, excavation or construction of less than five acres but greater than one acre without a permit for construction activity. A permit shall be obtained 30 days prior to clearing of land in preparation for any construction except:

- (1) The removal or increase of earthwork if in conjunction with any construction project of greater than five acres for which a building or construction permit has been issued. Property adjoining the parcel or property for which a building permit or construction permit has been issued may be used for the temporary storage of fill material provided written permission has been obtained from the adjoining property owner and the storage of fill materials ends at the completion of the permitted work. However, the work will conform to the standards and other requirements of this article and other applicable city ordinances.
- (2) Cemetery graves.
- (3) Sanitary landfill where authorized.
- (4) Demolition landfills where the Shawnee County Health Officer has authorized the same.

- (5) Exploratory excavations, tests, and/or sampling under the direction of a soil engineer or engineering geologist or as approved by the department of public works.

Nothing contained herein shall be construed as exempting from regulation excavation work which is regulated by separate permit as set forth in City Code section 130-231 (public place excavation) or City Code section 74-48 (flood plain).

(Ord. No. 17399, § 8, 9-7-99)

Sec. 146-459. Application for a city permit for construction activity.

A city permit for construction activity application shall be submitted:

- (1) For public improvements to the department of public works, engineering division, for plan review and approval and issuance of a permit 30 days prior to any groundbreaking activity.
- (2) For private improvements to the department of public works, development services division, for plan review and approval and issuance of a permit 30 days prior to any groundbreaking activity.

Each construction activity application will include a stormwater pollution prevention plan consisting of:

- (1) A detailed construction schedule that includes:
 - a. When construction is scheduled to begin;
 - b. Timeline for stabilization of denuded areas;
 - c. When installation of BMPs will occur;
 - d. When earthen structure construction will occur;
 - e. Timing for grading phases;
 - f. Timing for construction phases; and
 - g. Projection of final stabilization of site.
- (2) A description of best management practices to be used on the site including:
 - a. Physical description of best management practices;
 - b. Site and physical conditions that must be met for effective use of each best management practice;
 - c. Best management practice installation/construction procedures, including typical drawings; and

- d. Operation and maintenance procedures for best management practices.

The stormwater pollution prevention plan shall be amended and updated as appropriate during the term of the permit or upon request by the director of public works. The development services division will provide the application forms.

(Ord. No. 17399, § 9, 9-7-99)

Sec. 146-460. Submittal of best management practices.

A description of best management practices to be used shall be submitted with any and all building application requirements to the city's department of public works development services division, or engineering division, before any earth moving can begin.

The city may deny a building permit, or any other required city approval necessary to commence or continue construction, on the grounds that the best management practices are not sufficient to control and reduce the discharge of sediment, silt, earth, soil, and other materials from the site.

Any owner, contractor or subcontractor who is responsible for implementing best management practices is responsible for any willful or negligent failure on his/her part to adequately implement control measures if such failure causes or contributes to causing the city to violate a water quality standard, the city's NPDES permit, or any other state-issued discharge permit for discharges from its municipal storm sewer system.

(Ord. No. 17399, § 10, 9-7-99)

Sec. 146-461. Regulation of construction sites.

Any owner of a construction site or contractor or subcontractor working on a construction site shall use best management practices in accordance with concepts and methods described in Protecting Water Quality: A Field Manual for Missouri and Kansas¹ to control and reduce the discharge of pollutants to the municipal storm sewer system and waters of the United States to the maximum extent practicable.

The construction site contractor or subcontractor will supply qualified personnel to inspect disturbed areas of any construction site that has not been finally stabilized, areas used for storage of materials exposed to precipitation, best management practices installed on site, and locations where vehicles enter or exit the site.

(Ord. No. 17399, § 11, 9-7-99)

¹St Charles County Soil and Water Conservation District, et al., September 1998.

Sec. 146-462. Best management practices requirements.

When a best management practices submittal is required, it shall include the following information:

- (1) Whether the best management practice is temporary or permanent;
- (2) Where, in relation to other site features, the best management practice is to be located;

- (3) When, in relation to each phase of the construction procedures to complete the project, the best management practice will be installed; and
- (4) Site conditions that must be met before removal of the best management practice, if the best management practice is not permanent.

In addition, best management practices shall:

- (1) Preserve existing vegetation where practical.
- (2) Minimize areas of soil without vegetative cover to the extent practical.

Where soil-disturbing activities will be stopped in an area for over 14 days, it shall be the duty of the permit holder to protect the disturbed areas from erosion by stabilizing the area with mulch or other similarly effective erosion control practices.

(Ord. No. 17399, § 12, 9-7-99)

Sec. 146-463. Constuction activity permit issuance; criteria for approval, suspension, and revocation.

A permit shall be issued only when the requirements of this article with regard to the permit application, stormwater pollution prevention plan, required fees, and all other requirements have been satisfied. Any physical change in the site as a result of grading operations such as surface water drainage, soil and bedrock dislocations, alterations of ground water discharge, or any other natural or man-made modification which would cause doubt to be cast upon the feasibility of the contents of the original permit or stormwater pollution prevention plan must be reported in the intervening period between permit approval and stormwater pollution prevention plan implementation.

In granting a permit, the development services division, or engineering division, may attach such conditions as may reasonably be necessary to prevent danger to public or private property or to prevent the operations from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include but are not limited to:

- (1) Limitations on the hours of operation.
- (2) Designation of traffic routes upon which materials may be transported.
- (3) The place and manner of disposal of excavated or imported materials.
- (4) Requirements as to the control of dust and tracking of dirt or other consequences of the operation which may be offensive or injurious to the neighborhood or to the general public.
- (5) Regulations as to the use of public streets and places in the course of the work.
- (6) Requirements for safe and adequate drainage of the site.
- (7) Requirements for the fencing of excavation or fills which would be hazardous without such

fencing.

Every city permit for construction activity shall expire and become null and void if substantial work authorized by such permit has not commenced within 180 days of issuance or is not completed within one year from the date of issuance.

Any permittee holding an unexpired permit may apply in writing for an extension of the time within which construction operations are to be commenced or completed. The development services division, or engineering division, may extend the expiration date of the permit for a period not exceeding 180 days if the permittee presents satisfactory evidence that unusual difficulties have prevented commencement or completion of construction. The development services division, or engineering division, may suspend or revoke a city permit for construction activity if it is found that the applicant has failed to abide by the conditions of approval. It shall be a violation of municipal code to proceed with construction activity if a permit is suspended or revoked.

(Ord. No. 17399, § 13, 9-7-99)

Sec. 146-464. Completion of construction work.

Final reports. Upon completion of grading work the development services division, or engineering division, may require the following reports and drawings and supplements thereto:

- (1) An as-graded grading plan prepared by the civil engineer, including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities. The civil engineer shall state that to the best of his/her knowledge the work was done in accordance with the final approved grading plan.
- (2) A soils-grading report prepared by the soils engineer, including locations and elevations of field density tests, summaries of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soils engineering investigation report. The soils engineer shall render a finding as to the adequacy of the site for the intended use.
- (3) A geologic grading report prepared by the engineering geologist, including a final description of the geology of the site and any new information disclosed during the grading and the effect of such new information on recommendations incorporated in the approved grading plan. The engineering geologist shall render a finding as to the adequacy of the site for the intended use as affected by geologic factors.

The permit holder shall notify the development services division, or engineering division, when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices and all erosion control measures have been completed and the site stabilized in accordance with the stormwater pollution prevention plan, and the required reports have been submitted.

(Ord. No. 17399, § 14, 9-7-99)

Sec. 146-465. Fees.

A fee to cover the costs of plan review and inspection shall accompany all applications for a construction activity permit under this article. Such fees shall be in accordance with the following:

- (1) One to three acre construction sites \$40.00
- (2) Three to five acre construction sites 75.00

(Ord. No. 17399, § 15, 9-7-99)

Sec. 146-466. Regulation of industrial activities.

General. All operators of landfills; hazardous waste treatment, disposal, and recovery facilities; municipal waste facilities; EPA hazardous waste generators; Kansas hazardous waste generators; and industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA); and any other industrial facilities the director of public works determines are contributing a substantial pollutant load to the municipal stormwater sewer system; and who must obtain coverage for stormwater discharge associated with industrial activity shall:

- (1) Submit a signed copy of notice of intent (NOI), filed with the State of Kansas, to the stormwater section of the water pollution control division.
- (2) Prepare and implement a stormwater pollution prevention plan. Any time there is a change in design, construction, operation, or maintenance, which has a significant effect on potential stormwater discharges, or if the SWP2 plan is deemed ineffectual, the SWP2 plan must be updated. The operator shall retain the SWP2 plan for at least one year after stormwater discharges from industrial activities have ceased. The operator shall retain records for a six-year period of all sampling collection, and monitoring information collected and submit them on request to the director of public works.
- (3) No discharge shall contain any hazardous metals in a concentration greater than that which would exceed State of Kansas Surface Water Quality Standards.

(Ord. No. 17399, § 16, 9-7-99)

Sec. 146-467. Sampling of stormwater runoff by each industry.

A copy of stormwater sampling and analysis results will be submitted to the city's water pollution control, stormwater section, on an annual basis. Any additional information about each industry's sampling program shall be submitted to the city's water pollution control, stormwater section upon request including, but not limited to:

- (1) Results from the stormwater sampling;
- (2) Maintenance records on stormwater structural controls;
- (3) Information on the status and performance of stormwater structural controls;

- (4) Information on the status and performance of any stormwater nonstructural controls; and
- (5) Copies of all Superfund Amendments and Reauthorization Act Title III Section 313 reports that contain information on ground water and surface water monitoring, chemical release data, and corrective actions required by Kansas Department of Health and Environment.

(Ord. No. 17399, § 17, 9-7-99)

Sec. 146-468. Inspection of industrial facilities.

At least once per year qualified personnel (provided by the operator) shall conduct a comprehensive site compliance evaluation. Based upon this evaluation, the stormwater pollution prevention plan will be updated as needed. Within ten days of completion of the comprehensive site compliance evaluation, the individual reporting shall submit a report summarizing the scope of the evaluation to the city's water pollution control division, stormwater section.

The city's water pollution control division, stormwater section, shall maintain an inventory of municipal landfills; hazardous waste treatment, disposal, and recovery facilities, and industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 and any other industrial facilities that the permittee has determined to be contributing a substantial pollutant load to the municipal stormwater sewer system.

The city's water pollution control division, stormwater section will sample stormwater from at least two of the sites listed in the inventory on an annual basis for the following parameters:

- (1) Any pollutants limited in an existing NPDES permit for the facility.
- (2) Oil and grease.
- (3) Chemical oxygen demand.
- (4) pH.
- (5) Biochemical oxygen demand (five day).
- (6) Total suspended solids.
- (7) Total phosphorus.
- (8) Total Kjeldahl nitrogen.
- (9) Nitrate plus nitrite reported as N.
- (10) A minimum of a single grab sample shall be obtained within the first 30 minutes of stormwater runoff. The storm event should result in 0.1 inch or more of rainfall.

Where all stormwater discharges associated with industrial activity have ceased, the operator of the facility shall submit a copy of notice of termination (NOT), submitted to the State of Kansas, to the director of public works.

(Ord. No. 17399, § 18, 9-7-99)

Sec. 146-469. Citizen participation.

The water pollution control division of public works will receive citizen reports by telephone, in writing, and in person concerning any and all suspected illicit discharges into the municipal stormwater sewer system.

The water pollution control division of public works will keep a written record of each citizen report on file for a period of five years. This record will be furnished to the reporting citizen, upon request, along with information on any action undertaken by the city.

(Ord. No. 17399, § 19, 9-7-99)