

## CHAPTER 30: UTILITIES

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## **UTILITY RATE SETTING AND BILLING PROCEDURES**

### **30.01 Base and User Rates.**

The water, sewer and electric rate schedule shall be adopted no less often than annually by resolution of the City Council. The City Council may change said rate schedule at any time in its discretion by resolution. Water, sewer and electric charges are comprised of two rates: the user rate and the base fee. The per gallon/per kilowatt user rate is applied to actual usage accrued by each applicable customer. The main purpose of the service base rates is to ensure adequate revenue to meet the capital costs and debt service requirements relating to construction of the City's utility infrastructure. For that purpose, the service base fees are to be charged to every customer, even when service(s) has been disconnected to a property.

### **30.02 Billing Procedures Definitions.**

For purposes of this ordinance, the following words and phrases shall have the meaning as defined by this section:

A. **Bill.** The statement of account for municipal utility services rendered by the City to a customer and due and payable to the City by the customer.

B. **City.** The municipal corporation known as the City of Arlington, Minnesota, and any designated agent authorized to act on behalf of the City.

C. **Customer.** Any person, firm, corporation or entity to which the municipal utility services are rendered.

D. **Delinquent Customer.** Any person, firm, corporation or entity who fails to pay any current charges or portion thereof for any municipal utility by the close of the business on the 20<sup>th</sup> of the month following its original due date.

E. **Limited Metering.** A metering device/service that is designed to allow minimum usage/demand. If available, this service connection would apply to customers who have a delinquent account and are subject to disconnection. This type of connection would be within the compliance requirements of all Cold Weather rules. The City reserves the right to apply this connection and service as it sees fit.

F. **Municipal Utilities.** The water, sewer, storm water/sewer or electric departments or systems of the City of Arlington, Minnesota, or any combination thereof.

G. **Past Due Amount.** Any current charges or portion thereof for any municipal utility which remain unpaid past the due date of the bill on which such current charges first appear.

H. **Disconnect.** The water or electricity services shall not be made available to any person, firm, corporation or entity due to non-payment.

I. **Payment Arrangement Agreement.** A contract between the customer and the City allowing the customer to make payments to the City to pay any current charges or portion thereof for any municipal utility by a determined date.

### **30.03 Meters.**

The City of Arlington provides water, sewer, storm water/sewer and electricity services to residents of the City; including private homes, apartments and commercial users. The City of Arlington has water and electrical meters at each service location to monitor the amount of usage at that site. Bills are based on meter readings, submitted readings, or on estimated consumption, if necessary.

### **30.04 Utility Billing.**

There is hereby created a utility billing section within such department(s) as may be designated by the City Council. The billing section shall be responsible for the calculation and rendering of all municipal utility bills. The utility billing section shall maintain account records for each customer that includes the customer's name, billing address, service address, current charges and account history including past due charges, penalties and fees.

The City shall bill the owners of the property served by utility services. In the case of residential and commercial rental property, the renter shall be the party billed for the utility services upon properly setting up a utility account with the City. The owner and/or renter in these situations are hereafter referred to as the "customer".

In situations where rental property consists of two or more units, all of which are monitored by one meter, the city shall contract with the owner of the property to bill the owner for the utility services provided to the jointly metered building or complex.

### **30.05 Monthly Utility Bill.**

The utility billing section shall provide each municipal utility customer a combined monthly municipal utility bill which shall include the charges incurred by the customer for regular monthly water, sewer, storm water/sewer and electricity services or any combination thereof, plus any fees, penalties or previous balances. Each municipal utility shall be designated as a separate entry on the billing statement. Bills for municipal utility services provided shall be rendered and paid monthly.

### **30.06 Extra Service Bills.**

Billings for any extra services, installation charges or other special charges shall be rendered in accordance with the applicable utility or service rate resolution and shall be included on the appropriate monthly billing statement or as a separate bill.

### **30.07 Payment Methods.**

Payments can be made by mail or in person at City Hall, 204 Shamrock Drive, or deposited in the payment box also located at 204 Shamrock Drive. Customers can also pay their bill on-line anytime, by accessing the City Website at [www.arlingtonmn.com](http://www.arlingtonmn.com) and clicking on RevTrack on the home page.

Arrangements can be made to have a customer's bills paid directly through a checking or savings account. Inquire in City Hall to complete an Auto Bank Authorization Form.

### **30.08 Billing Cycle.**

A. Meter Reading Date. Meters shall be read as close as possible to the 15<sup>th</sup> of the month, but may range between the 12<sup>th</sup> and 19<sup>th</sup> day of the month.

B. Billing Period and Due Date. Monthly billings shall be rendered by the 1<sup>st</sup> day of the month following the period in which municipal utility services are provided. The total bill shall be due and payable by the close of business no later than the 15<sup>th</sup> day of the month in which services are billed. If the due date falls on a holiday, Saturday or Sunday the due date shall be at 8:00 a.m. on the first business day following the holiday or weekend. Payments can be deposited 24 hours a day in our payment box at City Hall to ensure they meet the 8:00 a.m. deadline.

C. Late Fees. If a bill is not paid on or before the close of business of the 20<sup>th</sup> day of the month in which a bill is rendered, a late charge equal to 5% of the current bill amount (minimum of \$1.00) shall be added to the account balance.

D. Disconnection Notice Issuance. If a bill is not paid by the first business day of the month following the month in which the original billing was made, the City shall send a disconnection notice along with the current bill, by first class mail to the customer. The disconnection notice will state the past due amount on the customer's account, plus applicable reconnection fees if not paid by the specified date (on or before the 15<sup>th</sup> of that month).

E. Final Disconnect Warning. If payment is not received by the initial disconnection notice due date, a final disconnect warning will be served by the Arlington Police Department on the delinquent customer, but if the customer cannot be found at the metered location, then said warning will be served on any adult person found at that location. Said final disconnect warning will be served at least two days prior to the actual disconnection. If no adult person can be found at the location to be served with the final disconnect warning, it shall be sufficient to post said disconnect warning on the primary entry doorway to the location. In the case of a residence, the primary entry door shall be considered the front door of the residence.

F. Disconnection Date. If a bill is still not paid by the close of business on the 20<sup>th</sup> of the month following the month of its original due date, it will be considered delinquent, and the City Administrator shall order a disconnection of the customer's municipal utility service(s).

### **30.09 Disconnection of Delinquent Customers.**

Any customer whose bill remains unpaid at 5:00 p.m. on the 20<sup>th</sup> day of the month following the month of the original due date, shall be considered delinquent. Any customer who is delinquent on any municipal utility (water, sewer, electricity) or any combination thereof may be disconnected from the municipal utility system; and once disconnected shall not be reconnected or reinstated until payment of all charges, penalties and reconnection fees necessary to bring the account(s) to a current status has been made.

Delinquent utilities may also be certified and assessed to property taxes to be collected in the same manner as special assessments and other taxes. For those properties that cannot be assessed, other methods to collect delinquent or unpaid utilities will be utilized (i.e. a professional collections agency, Minnesota Revenue Recapture).

During the months of October 15 to April 15, limited metering will go in effect for delinquent accounts. Business accounts are exempt from the “Cold Weather Rule”.

### **30.10 Municipal Utility Service Application.**

Any person, firm or corporation desiring to set up any municipal utility service or combination thereof shall make application for said service(s). The application shall be on such form(s) as may now or hereinafter be prescribed by the City. The application may include the applicant’s name, co-applicant’s name, service address, mailing address, landlord’s name, telephone number, personal identification number (e.g. social security number, driver’s license number and date of birth) or federal identification number (business), and signature of the party responsible for payment. A copy of a photo ID of the responsible party is also required. Persons applying on behalf of others, or acting as an agent for others, may provide the required information provided such agent agrees to assume responsibility for the person, firm or corporation upon whose behalf they are applying. Each service location shall be considered a separate account.

A meter deposit is required of any rental party, at the time of application for utility service. The meter deposit amounts are equal to two months average use of previous tenant. Special deposit will apply under city rules for designated rental complexes as listed in the annual fee schedule, as adopted by the City Council. Upon termination of service, the meter deposit and interest will be applied to the tenant’s final bill. If deposit funds remain, said balance will be refunded to the customer within 30 days, to the forwarding address provided to the City. If the meter deposit is not sufficient to pay the final bill in full, the tenant accepts responsibility for any remaining charges. Interest is paid on all deposits over \$20 held by the City and the interest rate is determined each year by the Minnesota Department of Commerce.

### **30.11 Disputed Utility Bills.**

A customer may request a face-to-face conference regarding any dispute over a proposed disconnection of service before the City Council to hear such matters. This conference must take place before the scheduled disconnection.

A customer may request a face-to-face conference with the Deputy Clerk to consider a payment plan that would bring a utility account current within a reasonable timeframe. If a customer fails to make good on any term and/or condition contained within the Payment Arrangement Agreement, the customer’s utility services may be disconnected immediately.

A customer, who feels the total usage reflected on their account for municipal utilities is incorrect, may request to have the City re-read their meter. A customer requesting to have their meter re-read must allow the City employee or contractor, access to the meter location at an agreed upon time during the course of City Hall normal business hours.

### **30.12 Service Charges.**

The following additional fees shall be charged for services provided by the municipal utility, which may be changed from time to time by resolution of the City Council:

A. Reconnection of service due to nonpayment of bill:

\$25.00 (Water) from 8:00 a.m. to 2:30 p.m. – Monday to Friday (excluding holidays)

\$50.00 (Electricity) from 8:00 a.m. to 2:30 p.m. – Monday to Friday (excluding holidays)  
\$250.00 (Electricity) After Hours.

B. Returned check fees:

\$30.00 per occurrence, plus any bank fees.

For returned checks, the customer shall pay, by cash or money order, the amount of the returned check(s) plus the returned check fee(s).

After a returned check has occurred, the customer may be required to pay all current and future payments by cash or money order until notified otherwise.

**30.13 Cold Weather Rule.**

The Minnesota Cold Weather Rule is designated to assist people who have trouble paying their utility bills during the winter months. The Rule was issued by the Minnesota Public Utilities Commission (216B.097 and amendments thereto). The Minnesota Cold Weather Rule applies from October 15 to April 15.

The full text of the Minnesota Cold Weather Rule can be obtained at the City Office.

The Cold Weather Rule does not prohibit winter shut off. A customer is to contact City Hall promptly if they receive a disconnection notice.

**30.14 Cold Weather Rule Payment Option.**

The following options are available if the customer receives a notice of disconnection:

A. Inability to Pay Plan. A residential customer can qualify for the Inability to Pay Plan if:

- (1) They are current or reasonably on time with a payment plan as of October 15;
- (2) Meets Income Guidelines as set by the State;
- (3) Are willing to make payment arrangements.

If a customer qualifies for Inability to Pay, the City of Arlington cannot disconnect their utility service between October 15 and April 15.

B. Ten Percent Plan. To qualify for the Ten Percent Plan a residential customer must be one who:

- (1) Was not current or reasonably on time with a payment plan as of October 15;
- (2) Meets income guidelines set by the State;
- (3) Agrees to pay the lesser of ten percent of monthly household income or the full amount of the current bill, not including arrears.

If the residential customer qualifies for the Ten Percent Plan and can make their required monthly payments, the City of Arlington cannot disconnect the customer's utility service between October 15 and April 15.

If a customer receives service from more than one utility, payment will be divided among the utilities. The utility providing the major portion of the energy costs from October 15 to April 15 will receive 70 percent of the 10 percent amount. All other utilities will receive equal portions of the remaining 30 percent.

C. Reconnection Plan. If the City of Arlington has shut off a customer’s utility service on or before October 15, they may qualify for the Reconnection Plan. To qualify, a residential customer must meet all three conditions:

- (1) Was not current or reasonably on time with a payment plan as of October 15;
- (2) Meets income guidelines set by the State;
- (3) Agrees to pay the total amount owed plus the current utility bill in monthly payments. The customer is not required to pay more than ten percent of their monthly household income.

If a customer qualifies for the Reconnection Plan, their utility service will be restored. If the customer continues to pay, the City cannot disconnect the customer’s service between October 15 and April 15.

**30.15 Payment Arrangement Agreement.**

The City of Arlington offers a payment schedule to delinquent residential customers of all income levels who are willing to make payment arrangements. The City may enter into a written Payment Arrangement Agreement for a customer’s municipal utility bill on a case-by-case basis. Verbal agreements will not be accepted. If the customer continues to make their payment arrangements on time, the City will not disconnect the customer’s service. Failure to keep payment arrangements, will result in an immediate disconnect. Under this plan, a customer may change its initial payment schedule in writing, if done before the disconnection, with approval of the City of Arlington.

**30.16 Medically Necessary Electricity Exemption.**

The Medically Necessary Electricity Exemption is designated to protect a customer from electricity shut off where life-sustaining medical equipment requiring electricity is in use. The Rule was issued by the Minnesota Public Utilities Commission (216B.098 and amendments thereto).

The full text of the Medically Necessary Electricity Exemption can be obtained at the City Office. Certification of the necessity for service is required.

**30.17 Alternative Assistance Programs.**

If a customer has difficulty paying their utility bill, local agencies may be able to provide payment assistance. The City of Arlington recommends one of the following:

- Minnesota Valley Action Council, Sibley County Office ..... 507-237-2981
- Sibley County Human Services ..... 507-237-4000
- Heat Share (Salvation Army) ..... 888-999-1568

A. Third Party Notification. Third Party Notification applies to all customers. This program benefits those who live alone, persons with disabilities, senior citizens, customers who do not read English, as well as renter/landlord situations.

The purpose of the program is to notify a third party, along with the customer, that a disconnection notice has been sent. A third party could be a friend, relative, church or community agency. Although the third party is notified of the proposed disconnection, they are not required to pay the bill(s). The third party is able to receive and give information about the personal circumstances of the customer and make a payment plan with the City of Arlington for the customer. This helps avoid the hardship that would result from service being disconnected. To name a third party, please complete a Third Party Notification form.

### **30.18 Minnesota Extreme Heat Law.**

The Minnesota Extreme Heat Law protects customers who are unable to pay their utility bill from being disconnected during an excessive heat watch, heat advisory, or excessive heat warning issued by the National Weather Service.

### **30.19 Obstructions.**

It shall be prohibited for any person to obstruct access to a municipal utility water meter, electric meter, meter reader or curb stop whether in a public right-of-way or on private property. Should any person, in violation of this section, refuse to remove an obstruction within 24 hours after written notification to do so, the City shall cause such obstruction to be removed at the owner's expense including but not limited to towing and storage charges for vehicles by following the abatement process.

## **ELECTRIC UTILITY**

### **30.20 Electric Transmission Franchise Required.**

Except as otherwise provided by law, no person, firm or corporation shall transmit, furnish, deliver or receive, or cause to be transmitted, furnished, delivered, or received electric energy for light, power, heat and other purposes for public and/or private use within and through the limits of the city, or place or maintain any permanent or semi-permanent fixtures in, over, upon, or under any street or public place for the purpose of operating a public utility or transmitting, furnishing, delivering or receiving, or causing to be transmitted, furnished, delivered, or received electric energy or for any other purpose, except pursuant to a franchise from the city. A franchise shall be granted only by ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the City Office to guarantee publication before the ordinance is passed.

### **30.21 Electric Transmission Franchise Term.**

No perpetual franchise or privilege shall ever be created, nor shall any exclusive franchise or privilege be granted for a period of more than twenty-five (25) years.

### **30.22 Electric Transmission Franchise Fee.**

Franchise Fee. As a part of any franchise ordinance adopted, the City may impose upon the grantee a franchise fee. The franchise fee shall be expressed as a specified charge per kilowatt hour of electric energy transmitted, furnished, delivered, or received, which fee shall be calculated by the City Council and imposed upon each kilowatt hour of electric energy transmitted, furnished, delivered, or received within the City. The franchise fee may be changed by resolution of the City Council from time to time; however, no change shall be adopted until at least 30 days after written notice enclosing such proposed resolution has been served upon the grantee by certified mail. The franchise fee may not change more often than once in each calendar year. Any such franchise fee shall be payable at the city's business office at times as set by the City Council by resolution, but no less often than once each calendar year.

### **30.23 Definitions.**

The following terms shall mean:

A. In this ordinance "City" or "City Council" and "City Administrator" means respectively, the City of Arlington, the Council of the City of Arlington, and the City Administrator of the City of Arlington.

B. Franchisee shall mean City of Arlington Electric Utility Department.

C. "Streets and public places" shall mean the streets, avenues, alleys, parkways, roads, squares, parks, bridges, viaducts, utility easements and public places in the City.

D. "Notice" means a writing served by any party or parties on any party or parties. In case of the Franchisee, notice shall be mailed to 230 West Shamrock Drive, Arlington, MN 55307. In the case of the City, notice shall be mailed to the City Administrator at 230 West Shamrock Drive, Arlington, MN 55307.

### **30.24 Grant of Franchise.**

The City hereby grants to the Franchisee, for a period extending to 25 years from the date of this ordinance, the right



to transmit, furnish, deliver or receive electric energy within the limits of the City as they now exist or as they may be extended or revised in the future. For those purposes, Franchisee may establish the necessary facilities and equipment in and along the streets and public places within the city. The Franchisee may also do reasonable things necessary or customary to accomplish those purposes, subject, however to the further provisions of this franchise.

### **30.25 Exclusive Franchise.**

This is an exclusive franchise.

### **30.26 Construction of Facilities.**

A. The Franchisee will give reasonable written notice to the City Administrator of its plan to construct facilities in any part of the City. Construction of facilities shall be in accord with established City planning and engineering policies.

B. Franchisee shall not open or disturb any street or public place for any purpose without first having obtained permission to do so from the City Administrator. The location of facilities in, under, upon, or over any street or public place shall be approved by the City Administrator. Franchisee shall, upon completion of any work requiring the opening of any street or public place, or during construction if ordered by the City Administrator, restore the same, including paving and foundations, to as good condition as formerly and shall maintain the same for two years thereafter in good condition. Said work shall be performed with due diligence and if the Franchisee shall fail promptly to perform and complete the work, to remove all dirt and rubbish and to put the street or public place or the area adjacent to the street or public place in good condition, the City shall have the right to put the street or public place in good condition at the expense of the Franchisee; and the Franchisee shall upon demand pay to the City the cost of such work done for or performed by the City. Notwithstanding the foregoing provisions of this section, Franchisee may open and disturb the surface of any street or public place without permission where an emergency exists requiring immediate repair of facilities. The Franchisee in such event shall report such action not later than the second working day thereafter and in such form as required by the City.

C. No street opening may be made unless adequate traffic control measures are provided.

### **30.27 Relocating.**

Whenever the City shall grade, regrade, improve or change the line of any street or public place or construct or reconstruct any public utility system therein or vacate any street or public place and shall, in the proper exercise of its police power, and with due regard to seasonable working conditions, when necessary, order the Franchisee to relocate in said street or public place, the Franchisee shall relocate its facilities at its own expense. The City shall give Franchisee reasonable notice of plans to grade, regrade, improve or change the line of any street or public place or to construct or reconstruct any public utility system therein or vacate any street or public way. Where the City orders the Franchisee to relocate any of its facilities, the Franchisee shall proceed with such relocation.

### **30.28 Location of Facilities.**

All facilities of Franchisee shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic, travel upon and use of the street and public places of the City. Franchisee shall keep and maintain all of its property in good condition, order and repair, so that the same shall not menace or endanger the life or property of any person. The Company shall provide field locations for all its facilities when requested within a reasonable period of time.

### **30.29 Indemnification.**

The Franchisee shall indemnify and hold harmless the City, its officers, employees and agents from all liability on account or injury to persons or damage to property caused by the Franchisee's construction, maintenance, repair or operations in the City.

### **30.30 Franchise Fee.**

It is understood by Franchisee that the City has imposed a franchisee fee by ordinance applicable to all franchises granted by the City. The fee may be changed by the City Council from time to time by resolution, pursuant to said ordinance.

### **30.31 Assignment.**

Franchisee upon notice to the City, shall have full right and authority to assign all rights conferred upon Franchisee by this franchise ordinance to any person, persons, firm or corporation. The assignee of such rights, by accepting such assignment, shall become subject to the terms and provisions of this ordinance.

### **30.32 Electric Utility Financial Management Definitions.**

For all purposes of this Ordinance the following terms shall have the following meanings unless the context hereof clearly requires otherwise:

A. Consulting Engineer shall mean a registered professional engineer or firm, not an employee of the City, and in the judgment of the City having a favorable national reputation as an engineering consultant to organizations operating electric utilities.

B. Electric Utility shall mean the properties of the City used, or acquired for use, in the generation and distribution of electric energy, as such properties may at any time exist.

C. Electric Utility Fund shall mean the fund referred to in Section 5 hereof, including the Construction Account, Operation and Maintenance Account, Revenue Bond Account, Reserve Account, Replacement and Depreciation Account, Surplus Account, and any other account which may be established pursuant to this chapter.

D. Gross Revenues shall mean all gross cash receipts from rates, fees, charges and rentals imposed for the availability, benefit and use of the Electric Utility, and from penalties and interest thereon, and from any sale of property constituting a part of the Electric Utility, and from the investment of such gross receipts, including payments received by the City under the Capacity Purchase Agreement, but excluding any amounts received as payments of special assessments.

E. Improvement shall mean any addition to, or alteration, extension or improvement of the Electric Utility.

F. Minimum Reserve Balance shall mean an amount equal to the maximum amount of principal and interest due on all Outstanding Bonds in any complete calendar year commencing after the date on which the Minimum Reserve Balance is being calculated.

G. Net Income shall mean, for any fiscal year, the total operating revenues of the Electric Utility, less the total operating expenses of the Electric Utility, to which shall be added investment income, depreciation and interest expense and payments made to the City in lieu of taxes, all as determined in accordance with generally accepted accounting principles.

H. Operating Expenses shall mean the current expenses, paid or accrued, of operation, maintenance and current repair of the Electric Utility, as calculated in accordance with generally accepted accounting principles, including, without limitation, administrative expenses of the City relating solely to the Electric Utility, all amounts payable by the City under the Power Sale Agreement, premiums for insurance on the properties thereof, labor and the cost of materials and supplies used for current operation, maintenance and repair, and charges for the accumulation of appropriate reserves for current expenses which are not recurrent monthly but may reasonably be expected to be incurred in accordance with sound accounting practices. Such expenses shall not include any allowance for depreciation, payments to the City's general fund, interest on debt or renewals or replacements of capital assets of the Electric Utility, nor any portion of the salaries or wages paid to any officer or employee of the City except such portion as shall represent reasonable compensation for the performance of duties necessary to the operation of the Electric Utility.

### **30.33 Public Utility Department**

The City operates the Electric Utility as a part of its Public Utility Department, pursuant to the City's home rule charter.

### **30.34 Revenue Bonds**

The City's home rule charter authorizes the City to issue revenue warrants (in this Ordinance, called bonds) to provide funds necessary for capital expenditures for the improvement, acquisition, extension and repair of the City's public utilities. Such bonds shall be payable solely from the net revenues of the City's Public Utility Department, or a part thereof, and the City shall be expressly relieved by the terms thereof from any obligation to levy, collect, use or apply any taxes or moneys received from taxation to the payment of either principal or interest on such bonds except for the payment of service rendered to for health or other benefits received by the City as a whole or any of its departments.

### **30.35 Revenue Bond Payments**

It is in the best interest of the City, its residents and customers of the Electric Utility that the City provide for the issuance of bonds payable solely from the Net Revenues of the Electric Utility in order to provide funds necessary to pay the cost of Improvements.

### **30.36 Bond Terms, Execution and Delivery.**

A. Bonds shall be issued in one or more series as determined by the City Council in a Series Resolution authorizing each series of Bonds. All Bonds shall be designated "City of Arlington, Minnesota, Electric Utility Revenue Bonds, Series \_\_\_\_\_".

B. The Bonds shall be issued in such principal amounts, shall be dated, shall be in such number, in such denominations, shall be redeemable at such times and prices and shall bear interest at such rate or rates, payable at such places, as shall be provided in the various Series Resolutions authorizing the issuance of the individual series. The principal of all Bonds shall be payable on April 1, and interest on all Bonds shall be payable on April 1 and October 1.

C. At least thirty days prior to the date set for redemption and prepayment of any prepayable Bond of any series, the City Administrator shall cause notice of the call for redemption thereof to be published in a daily or weekly periodical published in a Minnesota city of the first class, or its metropolitan area, which circulates throughout the state and furnishes financial news as a part of its service, and mailed to the bank at which principal of and interest on the Bonds of that series are then payable and to the holder thereof, if known to the City Administrator, but no defect in or failure to give such mailed notice of redemption shall affect the validity of proceedings for the redemption of any Bond. The City Administrator is hereby authorized and directed to maintain a register of the names and addresses of the holders of prepayable Bonds who desire to register the serial numbers of their Bonds with him for the purpose of receiving such mailed notice.

D. The Bonds shall be prepared under the direction of the City Administrator, shall be executed by the signature of the Mayor, attested by the Signature of the City Administrator, and sealed with the seal of the City; provided, that one such signature and the seal may be facsimiles. The interest coupons appurtenant to the Bonds and the certification of legal opinion shall be executed by the facsimile signatures of the Mayor and City Administrator. After the Bonds of any series have been prepared and executed, the City Administrator shall cause them to be delivered to the purchaser thereof upon payment of the purchase price, but the purchaser shall not be obligated to see to the application of the purchase price.

### **30.37 Electric Utility Fund and Accounts.**

The City will maintain within its Electric Utility Fund the separate bookkeeping accounts as hereinafter prescribed:

A. There shall be a Construction Account which shall be established and maintained as a separate account to be used only to pay costs and expenses which under generally accepted accounting principles constitute capital costs necessarily incurred for construction, improvement, acquisition, extension and betterment of Electric Utility properties, including but not limited to land, easements, buildings, structures, machinery and equipment, and the cost of all architectural and engineering, legal and other professional services, printing and publication, and other costs reasonably necessary and incidental thereto. To this account shall be credited all proceeds of the Bonds (except accrued and capitalized interest, which shall be paid into the Revenue Bond Account and any Bond proceeds to be deposited in the Reserve Account Pursuant to the Series Resolution authorizing the issuance of the Bonds of that series). All costs and expenses of constructing any Improvement shall be paid from time to time as incurred and allowed from said Construction Account, upon warrants signed by the City Clerk and the Treasurer, and the moneys in the Construction Account shall be used for no other purposes; provided, that if upon completion of any Improvement and approval thereof by the engineer planning such work on behalf of the City, and a determination by the City Council that all costs thereof have been paid, there shall remain any unexpended balance in the Construction Account, such balance shall be transferred to the Revenue Bond Account.

B. There shall be an Operation and Maintenance Account which shall be used only to pay, promptly when due, expenses which under generally accepted accounting principles constitute Operating Expenses. All amounts remaining after payment of such Operating Expenses shall constitute Net Revenues. To the Operation and Maintenance Account there shall be credited as received all of the Gross Revenues.

C. There shall be a Revenue Bond Account which shall be used only to pay principal and interest on Bonds. On or before the first day of each month, and from the Net Revenues on hand in the Operation and Maintenance Account, there shall be transferred to the Revenue Bond Account an amount (less any

amounts already on hand in the Revenue Bond Account and not previously credited against the payments due hereunder) equaling one-twelfth of the amount of principal, if any, coming due on Bonds on the next two succeeding interest payment dates plus one-sixth of the amount of interest coming due on Bonds on the next succeeding interest payment date; provided, that if on any interest payment date there are not funds on hand in the Revenue Bond Account sufficient to make the payments of principal, if any, and interest due on that interest payment date, Net Revenues sufficient for that purpose shall then be transferred to the Revenue Bond Account. The requirements of the Revenue Bond Account are cumulative, and if the full amount required cannot be transferred in any month, the deficiency shall be restored from the next Net Revenues available.

D. There shall be a Reserve Account which shall be used only to pay the principal of and interest on Bonds when amounts on hand in the Revenue Bond Account are insufficient for the purpose, and if ever so used shall be reimbursed therefor from any amounts on hand in the Replacement and Depreciation Account, or from the next Net Revenues in excess of the requirements of the Revenue Bond Account. On or prior to the date of delivery of any series of Bonds to the purchaser thereof, the City shall credit to the Reserve Account, from the proceeds of Bonds or from funds on hand and available for the purpose, and amount of money sufficient to make the balance on deposit in the Reserve Account equal to the Minimum Reserve Balance (including in the computation of the Minimum Reserve Balance the principal and interest requirements on the Bonds then to be issued). The balance in the Reserve Account shall be represented either by a separate bank account or by investments restricted by the City Council as belonging to the Reserve Account.

E. There shall be a Replacement and Depreciation Account, to which shall be credited on the books and records of the City such portion of the Net Revenues, in excess of the current requirements of the Revenue Bond Account and Reserve Account (which portion of the Net Revenues is referred to herein as "surplus net revenues"), as the Council shall determine to be required for the accumulation of a reasonable allowance for depreciation of the Electric Utility and for replacement or renewal of worn out, obsolete or damaged properties and equipment thereof. Moneys in this account shall be used only for the purposes above stated or to restore the Minimum Reserve Balance in the Reserve Account, or to pay the cost of Improvements.

F. There shall be a Surplus Account, to which shall be credited on the books and records of the City all Net Revenues on hand at any time in excess of the current requirements of the Operation and Maintenance Account, the Revenue Bond Account, the Reserve Account and the Replacement and Depreciation Account. Any balance in the Surplus Account shall be transferred to the Operation and Maintenance Account, the Revenue Bond Account or the Reserve Account whenever and to the extent needed for the purposes of those accounts, but when not so needed, may be transferred to the Construction Account, or to the Revenue Bond Account for the purpose of redeeming bonds in advance of their maturity dates, or may, subject to any provision of the City's home rule charter or law governing such transfers, be transferred to other funds of the City and used for proper municipal purposes.

### **30.38 Investments.**

Amounts on hand in the Electric Utility Fund may be invested and reinvested under direction of the Council in securities authorized for investment of municipal funds and maturing at or before the time when it is estimated that the proceeds thereof will be needed for the purposes of the account from which funds are withdrawn for the investment. All income, gain and loss on investments shall be credited or charged, as the case may be, to the account from which the investment was made; provided, that as long as the balance in the Reserve Account is not less than the Minimum Reserve Balance, any income realized by investment of the Reserve Account may be transferred to the Replacement and Depreciation Account.

### **30.39 Ownership and Operation.**

The City will continue to own, operate and maintain the Electric Utility and will not sell or otherwise dispose of or encumber any properties thereof; provided, that any properties of the Electric Utility not essential to continued operation of the Electric Utility in satisfaction of other covenants herein prescribed may be leased, sold or otherwise disposed of at their fair market value, and the proceeds thereof used to purchase other properties required for the Electric Utility or to pay principal and interest on Bonds. The City may also at any time discontinue its operation of the Electric Utility and thereupon sell or otherwise dispose of any part or all of the assets thereof provided that all of the following conditions are satisfied:

A. The City Council has adopted an ordinance or resolution determining that it is in the best interest of the City that the City shall discontinue its operation of the Electric Utility;

B. The City has complied with all applicable provisions of its home rule charter governing the sale or disposition of all or part of the Electric Utility;

C. The City has entered into a contract for the sale or other disposition of part or all of the Electric Utility on terms such that the City is entitled to receive amounts at all times sufficient to pay when due the interest to accrue on all Outstanding Bonds at their maturity dates or at an earlier date upon which they may be called for redemption in accordance with their terms and to pay when due the entire principal amount of all Outstanding Bonds at maturity or on an earlier date on which they may be called for redemption on their terms;

D. The City Council has adopted a resolution irrevocably pledging to payment of the Outstanding Bonds, and interest thereon, the amounts to be received by the City under paragraph (c);

E. The City has received: (i) from nationally recognized bond counsel a written opinion stating that the result of the pledge made in accordance with paragraph (D) will not result in the interest payable on the Bonds thereafter being subject to federal income taxes, and (ii) from a nationally recognized rating agency a written statement that under the circumstances the investment quality of the Outstanding Bonds has not been impaired by the sale or other disposition of the Electric Utility.

The City will otherwise continue to maintain the Electric Utility in good and efficient operating condition, and will not authorize or enfranchise the establishment of any other system for such purpose nor furnish free service to any customer, including the City; provided, however, that nothing herein shall be deemed to limit or impair any obligations of the City under the Power Sale Agreement.

### **30.40 Records; Annual Audit.**

The City will at all times keep proper books of record and account showing all receipts and disbursements of the revenues of the Electric Utility and proceeds of Bonds, in accordance with generally accepted accounting principles, which records shall at all reasonable times be open for inspection and copying by the holder of any of the Bonds or his agent or attorney. The City shall cause an annual audit of the books of record and account of the Electric Utility to be made by an independent certified public accountant and copies of the report of audit shall be furnished promptly to the original purchaser of each series of the Bonds.

### **30.41 Insurance.**

The City will at all times keep the Electric Utility insured against loss or damage by causes customarily insured against for like properties, in an amount adequate to protect the City and the holders of the Bonds, and will keep the officers and employees of the City adequately bonded for proper handling of all moneys of the Electric Utility in their possession. Any amounts received on any and all such insurance policies and fidelity bonds shall be used to repair or restore the damage or loss compensated thereby or to pay the principal of and interest on the Bonds.

### **30.42 Rate Covenant.**

The City will at all times impose, maintain and collect rates and charges for all electric services furnished and made available by the Electric Utility to the City, its inhabitants and other customers, according to schedules which will provide Gross Revenues sufficient to pay promptly all Operating Expenses and to make all payments when due with respect to the Revenue Bond Account and the Reserve Account. Subject to applicable laws, the City shall specifically set rates and charges, which shall be revised from time to time as necessary, such that the Net Income for each complete fiscal year shall be at least 125% of the principal and interest requirements on all Bonds during such year. The City will regularly render bills for electrical services furnished and will take whatever legal action is necessary, including discontinuance of service, to collect delinquent fees.

### **30.43 Priority of Payment.**

All Bonds shall be secured and payable hereunder equally, without preference or distinction by reason of date of issue, maturity or redemption date, or otherwise, except that if moneys in the Revenue Bond Account should at any time be insufficient to pay all principal and interest then due, said moneys shall first be applied to pay the interest then accrued on all Bonds, and the balance shall be applied in payment of maturing principal, in order of the maturities of the Bonds then due and payable, and all Bonds including the same maturity date shall share such moneys equally and ratably.

### **30.44 Additional Bonds.**

A. Additional Bonds may be issued only to finance Improvements or to refund then Outstanding Bonds, including the costs and expenses of the financing, interest during construction, and any amount of proceeds of the Additional Bonds to be credited to the Reserve Fund.

B. Any Additional Bonds issued for the purpose of refunding Outstanding Bonds shall mature no earlier than the Bonds being refunded unless all then Outstanding Bonds are being refunded.

C. On the date of delivery of any series of Additional Bonds the balance in the Reserve Fund must be not less than the Minimum Reserve Balance, computed with reference to all then Outstanding Bonds (exclusive of any thereof being refunded by that series of Additional Bonds) plus that series of Additional Bonds.

D. No Additional Bonds shall be issued to finance Improvements unless the Net Income for each of the two complete fiscal years immediately proceeding the issuance of such Additional Bonds was at least 125% of the maximum amount of principal and interest to become due in any complete calendar year following the issuance of the Additional Bonds, on both the then Outstanding Bonds and the Additional Bonds then proposed to be issued, provided that;

(1) If the rates and charges for the availability and service of the Electric Utility were in any respect increased since the beginning of such two preceding fiscal years, the Net Income of the Electric Utility may be adjusted upward, for purposes of paragraph (D) by such amount, if any, as a Consulting Engineer reports

in writing to the Council would have been received if such increased rates and charges had been in effect throughout such two preceding fiscal years;

(2) If the Improvements being financed by the Additional Bonds are such that if they had been in service throughout such two preceding fiscal years, according to the written report of a Consulting Engineer, either (x) certain demand charges (as distinguished from charges for the purchase of electric energy) paid by the City under any interconnection agreement with another electric utility would have been eliminated, or (y) base load energy costs, or the cost of purchased power, would have been reduced, or (z) the Gross Revenues would have been increased by an amount in excess of the increase in Operating Expenses, then the Net Income for such two preceding fiscal years may be adjusted upward by such amount as the report of the Consulting Engineer estimates would have been received had such Improvements been in service throughout such two preceding fiscal years.

### **30.45 Amendments.**

A. The City reserves the right to amend this Ordinance from time to time and at any time, for the purpose (a) curing any ambiguity or of curing, correcting or supplementing any defective provision contained herein, or (b) making such provision with regard to matters or questions arising hereunder as the Council may deem necessary or desirable and not inconsistent with this Ordinance, and which shall not, in the judgment of the Council, adversely affect the interests of the holders of Bonds, or (c) adding to the covenants and agreements of the City herein contained other covenants and agreements hereafter to be observed or for the purpose of surrendering any right or power herein reserved to or conferred upon the City, or (d) authorizing the issuance of Additional Bonds in the manner and subject to the terms and conditions prescribed herein, or (e) modifying or eliminating any of the terms of this Ordinance, provided that any such modification or elimination shall take effect only when there are no Bonds Outstanding of any series created prior to the adoption of such amendment. Any such amendment may be adopted without the consent of the holders of any of the Bonds.

B. With the consent of holders of Bonds, the City may from time to time and at any time amend this Ordinance by adding any provisions hereto or changing in any manner or eliminating any of the provisions hereof, or of any amending ordinance, except that no amendment shall be adopted at any time without the consent of the holders of all Bonds then Outstanding, if it would extend the maturities of any such Bonds, would reduce the rate or extend the time of payment of interest thereon, would reduce the amount or extend the time of payment of the principal thereof, would give to any Bond or Bonds any privileges over any other Bond or Bonds, would authorize the creation of a pledge of Net Revenues, or would reduce the percentage in principal amount of Outstanding Bonds required to authorize or consent to any such amendment.

C. Proof of the execution of any consent, or of a writing appointing any agent to execute the same, or of the ownership by any person of Bonds, shall be sufficient for any purpose of this Ordinance and shall be conclusive in favor of the City if made in the manner provided in this chapter. The fact and date of the execution by any person of any such consent or appointment may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the person signing it acknowledged to him the execution thereof. The amount of Bonds held by any person by or for whom a consent is given, and the distinguishing numbers of such Bonds, and the date of his holding the same, may be proved by a certificate executed by any trust company, bank or other depository, wherever situated, if such certificate is deemed satisfactory by the City Administrator, showing that at the date therein mentioned such person had on deposit with such depository, or exhibited to it, the Bonds therein described; or such facts may be proved by the certificate or affidavit of the person executing such consent, if such certificate or affidavit is deemed satisfactory by the City Administrator. The fact and date of execution of any such consent and the amount and distinguishing numbers of Bonds held by the person executing the same may also be proved



in any other manner which the City Council may deem sufficient; but the City Council may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable.

### **30.46 Defeasance.**

When any Bond has been discharged as provided in this Section, all pledges, covenants and other rights granted by this Ordinance shall cease as to the holder of such Bond. All Bonds and coupons of any series due on any date may be discharged by depositing at the bank at which the Bonds and coupons are payable, on or before the due date, a sum sufficient for the payment thereof in full; and if any Bond or coupon should not be paid when due, the same may nevertheless be discharged by depositing with the paying agent a sum sufficient for the payment thereof in full with interest accrued from the due date to the date of such deposit. The City may discharge prepayable Bonds of any series which are called for redemption or prepayment on any date when they are prepayable in accordance with their terms, by depositing with the bank at which principal and interest are then payable, on or before that date, a sum sufficient for the payment thereof in full on the specified prepayment or redemption date, provided that notice of such redemption or prepayment has been duly given as herein provided. The City may discharge each or all of the Bonds of any series and coupons appurtenant thereto at any time, when authorized by law, by irrevocably depositing in escrow with a suitable banking institution, for the purpose of paying all principal and interest due on such Bonds prior to a date upon which all of them will be prepayable according to their terms and paying all remaining Bonds of that series on that date with any redemption premium when due, a sum of cash sufficient for this purpose, or securities in such aggregate face amount, bearing interest at such rates, and maturing or callable at the option of the holder on such dates as shall be required, with any additional cash deposited, to provide funds sufficient for this purpose; provided, that notice of the redemption of all prepayable Bonds of that series has been duly given in accordance with the terms hereinabove provided. The securities to be so deposited shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States and any other securities of federal agencies which may be authorized by law for such specific purpose.

### **30.47 Certificates of City Officials.**

The officers of the City are authorized and directed to prepare and furnish to the purchasers of the Bonds and to the attorneys rendering an opinion as to the legality thereof certified copies of all ordinances, resolutions and records and such other certificates, affidavits, resolutions and records and such other certificates, affidavits and other instruments as may be required to evidence the validity or marketability of the Bonds, and all such certified copies, certificates and affidavits shall constitute representations of the City as to the truth of all statements contained therein.

## **STORM WATER UTILITY**

### **30.48 Storm Water Utility Establishment.**

The City hereby establishes a storm water drainage utility, pursuant to Minnesota Statutes, Section 444.075, from which revenues will be derived subject to the provisions of this Ordinance and said Minnesota Statutes. The storm water drainage utility shall be established and operated as a separate public utility and shall be supervised by the City Administrator or their designee. Just and reasonable charges for use, access, connection, and availability of storm sewer drainage facilities shall be calculated and determined based on expected and typical storm water run-off as may be calculated within reasonable and practical limits.

### **30.49 Definitions of Equivalency Factors.**

The following terms are defined for purposes of this Ordinance:

Residential Equivalency Factor (REF). As used in this Ordinance, shall be defined as the ratio of the average volume of run off generated by one acre of a given land use to the average volume of run off generated by one acre of typical single family residential land during a standard one year rainfall event.

Total Residential Equivalency (TRE). As used in this Ordinance, shall be defined as the resultant product of the multiplication of a parcel's acreage by the REF for the parcel's land use classification.

### **30.50 Findings and Determinations.**

In the exercise of its governmental authority and in order to promote the public health, safety, convenience and general welfare, the City has constructed, operated and maintained a storm water drainage system ("the system"). This Ordinance is adopted in the further exercise of such authority and for the same purposes.

A. The system, as constructed, heretofore has been financed and paid for through the imposition of special assessments and ad valorem taxes. It is now necessary and desirable to provide an alternative method of recovering some or all of the future costs of improving, maintaining and operating the system through the imposition of charges as provided in this Ordinance.

B. In imposing charges, it is necessary to establish a methodology that undertakes to make them just and equitable. Taking into account the status of completion of the system, past methods of recovering system costs, the topography of the city and other relevant factors, it is determined that it would be just and equitable to assign responsibility for some or all of the future costs of operating, maintaining and improving the system, on the basis of the expected storm water runoff from the various parcels of land within the city during a standard rainfall event.

C. Assigning costs and making charges based upon expected typical storm water runoff cannot be done with mathematical precision but can only be accomplished within reasonable and practical limits. The provisions of this Ordinance undertake to establish a reasonable and practical methodology for making such charges.

### **30.51 Finance.**

For the purpose of paying the cost of building, constructing, reconstructing, repairing, enlarging, improving, or in any other manner obtaining the facilities or any portion of them, or administering the City's storm

water drainage system, the City may issue and sell general or special obligations in accordance with Chapter 475 of the Minnesota Statutes. These obligations may be payable from any of the sources as set forth in Minnesota Statutes, Section 444.075, Subd. 2 which include, but are not limited to, those revenues derived by the utility as set forth below.

**30.52 Storm Water Drainage Utility Fund.**

There shall be maintained within the City’s accounting system a separate fund to be known as “Storm Water Drainage Utility Fund”. All revenues derived by the utility shall be deposited in such fund. Such fund shall be used for the purpose of paying the cost of building, constructing, reconstruction, repairing, enlarging, improving, or in any other manner obtaining the facilities or any portion of them, or administering the City’s storm water drainage system.

**30.53 Rates and Charges.**

A. Rate Determination. Minnesota Statutes, Section 444.075, Subd. 3a states that storm water utility rates may be established using one of the following systems:

- (1) By reference to the square footage of the property charged, adjusted for a reasonable calculation of storm water runoff; or
- (2) By reference to a reasonable classification of the types of premises to which service is furnished; or
- (3) By reference to the quantity, pollution qualities, and difficulty of disposal of storm water runoff produced; or
- (4) On any other equitable basis, including any combinations of equitable bases referred to in 1 to 3.

B. Storm Water Drainage Fees. Fees for use and availability of storm drainage facilities for parcels of land shall be determined by multiplying the REF for the parcel’s land use classification by the parcel’s acreage resulting in a TRE. The REF for various land uses as defined under city zoning laws are as follows:

<u>LAND USE</u>	<u>REF</u>
Single Family	1
Commercial	5
Institutional	3
Industrial	5

For the purpose of calculating storm sewer water drainage fees, all developed single family parcels shall be considered to have an area of one-third acre. The storm water drainage rate schedule shall be established by Resolution.

C. Multi-family Land Uses. Commercial multi-family residence complexes shall be treated as Commercial. This shall include apartment complexes, mobile home parks and senior care facilities. Small multi-family rental dwellings of four units or less shall be treated as Institutional for use and charges; to be divided equally to each dweller unit.

D. Other Land Uses. Land uses not listed in the foregoing table are to be classified by the City Administrator by assigning those uses to classes most nearly like the listed uses. An appeal from the Administrator's determination of the property classification may be made to the City Council.

E. Exemptions. The following land uses are exempt from storm water drainage fees:

- (1) Public right-of-way;
- (2) Wetlands and public waters as defined by state law;
- (3) Vacant, undeveloped land with sufficient ground cover so as not to create any significant runoff as determined by the City Administrator;
- (4) Agricultural Land; and
- (5) Land owned by the City.

#### **30.54 Access or Connection Charges.**

A Storm Water Access or Connection Charge (SWAC) to every new or improved property in the storm water utility system will be charged a SWAC. A SWAC of \$1.00 per 100 square feet of a lot size or area, with a minimum charge of \$100, will be charged to every new or improved property. Future access or connection charges may be established by a Resolution of the City Council in a fair and equitable manner.

#### **30.55 Payment of Monthly Charges.**

Statements for storm water drainage fees for use and availability of storm water drainage facilities shall be made a part of the present utility billing system involved on a monthly basis. Revenue from storm drainage fees shall be credited to storm water drainage funds.

#### **30.56 Late Payment of Monthly Charges.**

Each billing for storm water drainage fees for use and availability which are not paid when due shall incur a penalty charge. Interest rate charges established by the City Council for other utilities shall apply to storm water utility bills.

#### **30.57 Adjustment of Charges.**

The City Council may by Resolution adopt policies providing for the adjustment of charges for parcels or groups of parcels, based upon land use data supplied by affected property owners. The adjustment will be made only upon recommendation of the City Administrator and may not be made effective retroactively.

#### **30.58 Supplying Information.**

The owner, occupant or person in charge of any premises shall supply the City with such information as the City may reasonably request related to the use, development and area of the premises. Willful failure to provide such information or to falsify it is a violation of this Ordinance.

#### **30.59 Estimate Charges.**

If the owner, occupant or person in charge of any premises fails or refuse to provide the information requested, as provided in Section 30.39, the charge for such premises shall be estimated and billed in accordance with such estimate, based upon information then available to the City.

### **30.60 Billing Method.**

Statements for storm water drainage utility fees will be computed every month and collected by the City monthly along with the water, sewer and electric utilities. Any prepayment or overpayment of charges shall be retained by the City and applied against subsequent monthly fees. Delinquent accounts will be treated the same as water, sewer and electric accounts.

### **30.61 Certification of Past Due Fees on Taxes.**

Any storm water utility fees past due on October 1 of any year may be certified to the County Auditor for collection with real estate taxes in the following year or any year thereafter. In addition, the City shall also have the right to bring a civil action or to take other legal remedies to collect unpaid fees.

### **30.62 Recalculation of Charges.**

If a property owner or person responsible for paying the storm water drainage fees or charges questions the correctness of an invoice for such charge or fee, such person may have the determination of the charge recomputed by written request to the City Administrator made within 90 days of mailing of the invoice in question by the City.

### **30.63 Storm Water Management Findings.**

A. The City of Arlington finds that storm water regulation and management is a matter of public health, safety, and welfare because:

- (1) Water bodies, roadways, structures, and other property within, and downstream of the City of Arlington are at times subjected to flooding;
- (2) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the City of Arlington and the region;
- (3) Changes in land use alter the hydrologic response of watersheds, resulting in increased storm water runoff rates and volumes, which further result in increased flooding, increased stream channel erosion, and increased sediment transport and deposition;
- (4) Storm water runoff produced by changes in land use contributes to increased quantities of water-borne pollutants;
- (5) Increases of storm water runoff, soil erosion, and non-point source pollution have occurred as a result of changes in land use, and cause deterioration of the water resources within and downstream of the City of Arlington;
- (6) Increased storm water runoff rates and volumes, and the sediments and pollutants associated with storm water runoff from future earth change projects within the City of Arlington will, absent

reasonable regulation and control, adversely affect the City of Arlington water resources and those downstream;

(7) Storm water runoff, soil erosion, and non-point source pollution can be controlled and minimized by the regulation of storm water runoff from earth changes and by the use of Best Management Practices and other innovative means;

(8) Adopting and implementing the standards, criteria and procedures contained in this Ordinance will address many of the deleterious effects of storm water runoff, both from a water quality and a water quantity perspective;

(9) Adopting these standards is necessary for the preservation of the public health, safety, and welfare and mitigation of adverse impacts from storm water runoff.

B. The City of Arlington hereby finds soil erosion and sediment control and management are matters of public health, safety, and welfare, because:

(1) The water quality within the City of Arlington, Sibley County, and the State of Minnesota is greatly affected by erosion and sedimentation in the watershed.

(2) During construction activities land is highly susceptible to erosion and/or sedimentation especially when Best Management Practices (BMPs) for erosion and sediment control are not installed and maintained properly.

(3) Sediment is considered to be one of the most damaging pollutants in Minnesota, and is the major pollutant by volume in state surface waters.

(4) Runoff from construction sites is by far the largest source of sediment in urban areas under development. Sediment-loading rates from construction sites are 5 to 500 times greater than those from undeveloped land (USEPA, 1977).

(5) Another major source of sediment is streambank erosion, which is accelerated by increases in peak rates and volumes of runoff due to urbanization.

(6) Proper design and installation of BMPs, monitoring BMP effectiveness, and maintaining BMPs are issues that are critical in reducing the effects of erosion and are best addressed at the local level.

(7) Regulating erosion and sediment before, during and after construction is a powerful and effective local government tool for protecting water quality.

### **30.64 Statutory Authorization.**

This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B, 105, 462, and 497, Minnesota Rules, Parts 6120.2500-6120.3900, and Minnesota Rules Chapters 8410 and 8420.

### **30.65 Purpose and Intent.**

The purpose of this Ordinance is to control, reduce, and to the extent possible, eliminate storm water pollution along with soil erosion and sedimentation thereby helping to preserve natural resources within the

City of Arlington from undesirable impacts related to development or other activities. It establishes standards and specification for conservation practices and planning activities, which minimize storm water pollution, soil erosion, and sedimentation.

B. The intent of this Ordinance is to establish minimum storm water management and erosion and sedimentation requirements and controls to accomplish, among others, the following objectives:

- (1) To reduce flood damage;
- (2) To minimize increased storm water runoff rates and volumes due to changes in land use;
- (3) To minimize the physical deterioration of existing watercourses, culverts and bridges, and other structures;
- (4) To encourage water recharge into the ground where geologically favorable conditions exist;
- (5) To prevent an increase in non-point source pollution;
- (6) To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes;
- (7) To minimize the impact of changes in land use upon stream bank and streambed stability;
- (8) To reduce erosion from earth change or construction projects;
- (9) To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution;
- (10) To reduce storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever practicable, from lands proposed for redevelopment that were not previously developed with storm water management controls meeting the purposes and standards of this article;
- (11) To reduce the adverse impact of changing land use on neighboring properties and water bodies and, to that end, this article establishes minimum standards to protect water bodies from degradation resulting from changing land use.

### **30.66 Scope.**

A. This Ordinance outlines the requirements for storm water management systems within the City of Arlington. In the event of any conflict between the provisions of this Ordinance or other regulations adopted by the City of Arlington, State of Minnesota or Federal authorities, the more restrictive standard prevails.

B. The provisions of the “Waste Controls and Illicit Discharge” and “Inspections and Enforcement” portions of this Ordinance apply to all areas within the City at all times. All other provisions of this Ordinance shall apply to all sites on which a Land Disturbance Activity occurs or has occurred since the date of the enactment of this Ordinance.

C. Exemptions.

- (1) Section F of this Ordinance entitled “Waste Control and Illicit Disposal” as may be amended applies to all properties within the City regardless of the exemptions herein.
- (2) Any part of a subdivision or Planned Unit Development if the preliminary plat has been approved by the City Council on or before the effective date the Ordinance, except that a storm water management permit for land disturbing activities on such properties may still be required, as determined by the City Engineer, and such activities are still subject to other compliance requirements in accordance with this Ordinance. A storm water management plan is generally not required for individual lots or properties located within a subdivision or plat for which a Storm Water Management Plan has already been approved. This exemption is subject to the City Engineer’s consideration and approval.
- (3) A parcel for which a building permit has been approved on and/or before the effective date of this Ordinance and an NPDES permit was not required.
- (4) Linear road construction, widening, or maintenance projects not related to a specific development project (e.g. City project or County project) where the lack of right-of-way precludes the installation of any of the permanent storm water management practices outlined in this Ordinance provided that other treatment such as grassed swales, smaller ponds, or grit chambers, are provided prior to discharge to surface waters and further provided that such projects are undertaken in accordance with all applicable state and federal regulations regarding erosion control and storm water management.
- (5) Any land disturbing activity greater than one acre for which plans have been approved by the City within six months prior to the effective date of this Ordinance.
- (6) Land disturbing activities to construct, install, or maintain public or private utilities that disturb less than 3,750 cubic feet of soil.
- (7) All USDA/NRCS agricultural activities for the production of agricultural, horticultural, or forestry crops and livestock production including the installation or maintenance of drainage tile lines and fencing for livestock or other agricultural purposes.
- (8) Emergency repair work requiring immediate action, provided the disturbed area is limited to the minimum area needed to address the emergency and the area is stabilized in accordance with this Ordinance as soon as possible. A permit may be required for all subsequent or additional work.
- (9) Minor, incidental land disturbance activities such as home gardens and an individual’s home landscaping, repairs, and maintenance work provided:
  - (a) Sediments will not enter the storm water system. The City Engineer shall make a determination of whether or not sediments will enter the storm water system.
  - (b) The activity will disturb less than 3,750 cubic feet of soil, calculated as cubic feet = length X width X depth (e.g. 3,750 equates to 5,000 square feet excavated to a depth of 8”) of soil.
- (10) Installation of fence, sign, telephone, cable television, electric poles, and other kinds of posts or poles, utility lines or service connections to these utilities which result in disturbance of less than 3,750 cubic feet of soil.



(11) Construction of a dwelling on a legal lot within a development that itself previously received approval under this Ordinance or has an applicable NPDES Permit, provided that less than 3,750 cubic feet of soil is disturbed for such construction.

### **30.67 Definitions for Storm Water Utility.**

A. Unless specifically defined below, the words or phrases used in this Ordinance shall have the same definition as is in the current NPDES General Storm Water Permit for Construction Activities. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "must" are always mandatory and not merely directive. For the purpose of this Ordinance, certain terms and words are hereby defined as follows:

- (1) Applicant. The party that is submitting an application for a permit to conduct land-disturbing activities.
- (2) Best Management Practices (BMPs). Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies. BMPs must be adapted to the site and can be adopted from other sources.
- (3) Emergency Action. Any action of the City needed to abate, remedy, or correct a condition that presents or may present an imminent or substantial danger to the health or welfare of persons downstream, or substantial danger to the environment.
- (4) Erosion Control or Prevention. The interception of precipitation and preventing of soil particles from moving. Practices that prevent erosion include, but are not limited to, construction staging, protecting existing vegetation, and minimizing tracking of disturbed slopes. Products designed to control erosion include straw, mulch, ground covers, fiber blankets, hydro-seeding, and the like.
- (5) Illicit Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section D of this Ordinance.
- (6) Illicit Connections. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (7) Impervious Surface. A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

(8) Land Disturbing Activity. Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the City's jurisdiction, including construction, clearing and grubbing, grading, excavating, transporting and filling of land.

- (a) Tilling, planting, or harvesting of agricultural, horticultural, or forestry crops.
- (b) Emergency work to protect life, limb, or property and emergency repairs, unless the Land Disturbing Activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the City's requirements as soon as possible.

(9) Land Disturbing Activity, Minor Incidental. Land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work provided:

- (a) Sediments will not enter the storm water system. The City Engineer shall make a determination of whether or not sediments will enter the storm water system.
- (b) The activity will disturb less than 3,750 cubic feet of soil, calculated as cubic feet = length X width X depth (e.g. 3,750 equates to 5,000 square feet excavated to a depth of 8 inches) of soil.

(10) Land Disturbing Activity, Small Site. An activity disturbing 3,750 cubic feet or more of soil which does not disturb an area equal to or greater than one acre in size.

(11) Land Disturbing Activity, Large Site. Any project that either requires an NPDES permit as per the current NPDES Permit requirements and all subsequent revisions for, construction activity disturbing one or more acres of land or a project adding at least 10,000 square feet of new impervious surface. Aggregate surfacing is considered an impervious surface.

(12) National Pollutant Discharge Elimination System (NPDES). The program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

(13) NPDES Storm Water Permit for Construction Activities. A permit authorizing the discharge of storm water associated with construction activity issued by the Minnesota Pollution Control Agency (MPCA) under the National Pollutant Discharge Elimination System (NPDES)/State Disposal System Permit Program. The permit shall refer to the most current general permit issued by the MPCA or the permit issued for a specific project, if applicable.

(14) Owner. Any person holding title to or having a divided or undivided interest in the property or site. "Owner" means the person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the construction activity.

(15) Permanent Cover. Final stabilization. Examples include grass, gravel, asphalt, and concrete.

(16) Permittee. A person or persons, firm, or governmental agency or other institution that signs the application submitted to the MPCA and is responsible for compliance with the terms and conditions of this permit.

(17) Sediment Control. The capturing of soil particles after they have been dislodged and have begun to be carried away from the site. Products designed for sediment control include, but are not limited to, silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation ponds.

(18) Storm water. Precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.

(19) Storm Water Pollution Prevention Plan or SWPPP. An erosion and sediment control plan developed in accordance with the requirements of the NPDES Storm Water Permit for “Land Disturbing Activity, Large Site” as defined herein. A plan for storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site non-point pollution.

(20) Surface Water or Waters. All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private.

(21) Temporary Erosion Protection. Methods employed to prevent erosion. Examples of temporary cover include; straw, wood fiber blanket, wood chips, and erosion netting.

(22) Watershed District. The High Island Creek Watershed District.

### **30.68 Waste Controls and Illicit Discharge**

#### **A. Illegal Disposal.**

(1) No person shall throw, deposit, place, leave, maintain, keep, or permit to be thrown, placed, left, maintained or kept, any refuse, rubbish, garbage, or any other discarded or abandoned objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin conduit or drainage structure, business place, or upon any public or private plot of land in the City, so that the same might be or become a pollutant, except in containers, recycling bags, or other lawfully established waste disposal facility.

(2) No person shall intentionally dispose of grass, leaves, dirt, or other landscape debris into a water resource buffer, street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, wetland, storm drain or any fabricated natural conveyance.

#### **B. Illicit Discharges and Connections.**

(1) No person shall cause any illicit discharge to enter the municipal storm water system unless such discharge:

- (a) Consists of non-storm water that is authorized by an NPDES point source permit obtained from the MPCA; or,

(b) Is associated with fire fighting activities.

(2) No person shall use any illicit connection to intentionally convey non-storm water to the City storm water system.

C. Good Housekeeping Provisions - Any owner or occupant of property within the City shall comply with the following good housekeeping requirements:

(1) No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where discharge to streets or storm drain system may occur. This Ordinance shall apply to both actual and potential discharges.

(a) For pools, water should be allowed to sit seven days to allow for chlorine to evaporate before discharge. If fungicides have been used, water must be tested and approved for discharge to the wastewater treatment plant.

(2) Storage of Materials, Machinery, and Equipment.

(a) Objects, such as motor vehicle parts, containing grease, oil or other hazardous substances, and unsealed receptacles containing hazardous materials, shall not be stored in areas susceptible to runoff or discharge to a storm water system.

(b) Any machinery or equipment that is to be repaired or maintained in areas susceptible to runoff shall be placed in a confined area to contain or collect leaks, spills, or discharges without discharge to the storm water system.

(c) Fuel and chemical residue or other types of potentially harmful material, such as animal waste, garbage or batteries, which is located in an area susceptible to runoff, shall be removed as soon as possible and disposed of properly. Household hazardous waste shall be stored indoors and disposed of according to state law.

### **30.69 Permit Required.**

A. Land Disturbing Activities, Minor Incidental.

(1) Property owners conducting “land disturbing activities, minor incidental” meeting the definition included in this Ordinance are encouraged to incorporate erosion and sediment control best management practices when completing a project.

(2) No permit from the City of Arlington relating to storm water and erosion/sediment control is necessary for “land disturbing activities, minor incidental”.

B. Land Disturbing Activities, Small Sites.

(1) “Land Disturbing Activities, Small Sites” require an administrative permit from the City of Arlington accompanied by any applicable fee.

(2) The Owner of the subject property and/or the Owner’s Representative (contractor) for any “Land Disturbing Activities, Small Site” projects shall complete an “Erosion and Sediment

Control Planning Checklist” (available from the City) specifying the erosion and sediment control practices to be used on site.

(3) Erosion control for “Land Disturbing Activities, Small Sites” shall meet the requirements of the rules of the Watershed District, as may be amended.

C. Land Disturbing Activities, Large Sites.

(1) “Land Disturbing Activities, Large Sites” require submittal of a permit application to the City and the application for an NPDES Storm Water Permit for Construction Activities. The project shall incorporate all requirements of the NPDES Storm Water Permit for Construction Activities.

(2) Erosion and sediment controls, both temporary and permanent, on all “Land Disturbing Activities, Large Sites” shall, at a minimum, meet the requirements and provisions defined in the NPDES Storm Water Permit for Construction Activities.

(3) No Land Disturbing Activity on any “Land Disturbing Activity, Large Site” shall be conducted prior to obtaining coverage under the NPDES Storm Water Permit for Construction Activities.

**30.70 Permit/Plan Review Process.**

A. Applications for an administrative permit for “Land Disturbing Activities, Small Sites” or permits for “Land Disturbing Activity, Large Site” projects shall be filed with the Zoning Administrator and/or his/her designee on an official application form of the City, accompanied by a fee as established by City Council resolution.

B. Information Requirement.

(1) Applications for “Land Disturbing Activities, Small Site” projects shall include:

- (a) A completed application and required fee.
- (b) Detailed written and graphic materials fully explaining the proposed change, development, or project.
- (c) A completed Erosion and Sediment Control Planning Checklist (available from the City)

(2) Applications for “Land Disturbing Activities, Large Site” projects, unless specifically waived by the City Engineer, shall include:

- (a) A completed application form and required fee.
- (b) Copies of permits or permit applications required by other jurisdictions (e.g. NPDES, Wetland Conservation Act, Clean Water Act Section 404) including mitigation measures required as a result of any review for the project (e.g. wetland mitigation, EAW, EIS, archaeology survey, etc.).
- (c) Identification

- (1) Project name;
  - (2) Project type (residential, commercial, industrial, road construction, or other);
  - (3) Project location;
  - (4) County parcel identification number and legal description;
  - (5) Names and addresses of the owner, developer, land surveyor, engineer, and any agents, contractors, and subcontractors who will be responsible for project implementation;
  - (6) Identification of the entity responsible for the maintenance of any privately owned storm water management systems.
- (d) A narrative description of the project including:
- (1) Proposed land disturbing activities and measures to prevent erosion and manage sedimentation.
  - (2) The schedule of anticipated starting and completion dates of each land disturbing activity including the installation of construction site erosion control measures.
  - (3) Provisions for maintenance of the construction site erosion control measures during construction.
  - (4) Proposed permanent storm water management BMPs and how they achieve the stated purpose.
  - (5) A Storm Water Pollution Prevention Plan (SWPPP) compliant with the most recent requirements of the Minnesota NPDES General Storm water Permit for Construction Activity and all subsequent revisions.
- (e) Maps and data depicting existing predevelopment site conditions for the applicable site and areas beyond the subject site boundary sufficient to illustrate the relationship of the existing site and the adjacent area.
- (1) Property lines, lot dimensions, existing zoning, location of all buildings, setbacks, impervious surfaces, roads, driveways, parking areas, natural and artificial water features (including normal water level and ordinary high water level), location of drain tiles, ditches, wetland boundaries, flood zone determination, location and description of vegetative cover/wooded area and extent thereof proposed for removal. If required, and at the Applicant's expense: identification of ordinary high water marks of all navigable waters, 100-year flood elevations and delineated wetland boundaries, if any. If not available, appropriate flood zone determination or wetland delineation, or both, may be required at the Applicant's expense.
  - (2) If required, a map of watershed drainage areas, soil types, infiltration rates, depth to bedrock, and depth to seasonal high water table.

- (3) Steep slopes where areas of 12% or more existing over a distance for 50 feet or more, including bluff areas if applicable.
- (4) Hydrologic calculations for volume runoff, velocities, and peak flow rates by watershed, for the 2-yr, 10-yr, and 100-yr 24-hour storm events, as required by the City Engineer. These shall include:
  - (a) Pre-existing peak flow rates.
  - (b) Assumed runoff curve numbers.
  - (c) Time of concentration used in calculations.
  - (d) If a flood insurance study has been done by the National Flood Insurance Program, the 100-year flood elevation with and without the floodway.
- (f) Maps and data depicting proposed construction plans. A complete site plan signed and dated by a licensed professional engineer drawn to an appropriate and legible scale applicable to subject site and areas beyond the subject site boundary sufficient to illustrate the relationship of the existing site and the adjacent area.
  - (1) Property lines and lot dimensions of plat. If required, elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project. Identification of all natural and artificial water features including, but not limited to lakes, ponds, streams (including intermittent streams), ditches and steep slopes of 12% or more existing over a distance for 50 feet or more. If required, the ordinary high water marks of all navigable waters, 100-year flood elevations and delineated wetland boundaries, if any. If not available, appropriate flood zone determination or wetland delineation, or both, may be required at the Applicant's expense.
  - (2) The dimensions and setbacks of all proposed buildings and easements. The location and area of all proposed impervious surfaces including public and private roads, interior roads, driveways, parking lots, pedestrian ways, and rooftops. Traffic patterns and types of paving and surfacing materials shall be illustrated.
  - (3) Location, size, and grade of proposed public sewer and water mains.
  - (4) Locations and dimensions of areas to be disturbed, areas to be protected from land disturbing activities, and locations and dimensions of all temporary soil or material stockpiles;
  - (5) Locations and dimensions of all temporary and permanent erosion prevention, sediment control, and soil stabilization; if required, location of temporary and permanent sedimentation basins;
  - (6) Location and engineered designs for structural Best Management Practices for the site during and after construction;

- (7) Finished grading plan containing contours at two (2)-foot intervals or less and clearly showing the relationship of proposed changes to existing topography and remaining features;
- (8) A drainage plan of the developed site showing in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect;
- (9) Hydrologic calculations for volume runoff, velocities, and peak flow rates by watershed, for the 2-yr, 10-yr, and 100-yr 24-hour storm events. These may include:
  - (a) Post construction peak flow rates with no detention.
  - (b) Post construction peak flow rates with detention.
  - (c) Assumed runoff curve numbers.
  - (d) Time of concentration used in calculations.
  - (e) If a flood insurance study has been done by the National Flood Insurance Program, the 100-year flood elevation with and without the floodway.
  - (f) Hydrologic calculations for retaining soil particles greater than 5 microns (80% reduction) for new construction sites and greater than 20 microns (40% reduction) for redevelopment sites resulting from a one-year 24-hour storm event.
- (10) If required by the City Engineer: Bankfull discharge rate of creek or stream if there is a waterway on the site or if the site discharges directly to the waterway; normal water level, high water level, and emergency overflow elevations for the proposed basins on site; and, floodway and flood fringe boundary, if available.
- (11) Other information determined to be necessary by the City and/or its designee.

(3) Applications must be complete before they are accepted. The Zoning Administrator or his/her designee may request additional information from the Applicant concerning the application or may retain expert opinions at the expense of the City, or may require as a condition of proceeding with its consideration of any matter, that the Applicant furnish expert opinion and data at the expense of the Applicant.

(4) The Zoning Administrator shall forward the completed "Land Disturbing Activities, Large Site" application to the City Engineer for his/her review and approval. The City Engineer shall review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this Ordinance.

(5) The City Engineer shall make a written determination on approval or denial of the administrative permit or storm water pollution prevention plan within sixty (60) days from the date of submission of a complete application, unless the review period is extended as per Mn. State 15.99, as may be amended. Specific conditions to assure compliance with applicable standards of this Ordinance may be attached to the permit. Each SWPPP shall be reviewed by the



City Engineer. Any SWPPP found to not substantially meet all requirements of the NPDES Storm Water Permit for Construction Activities may be returned to the Owner or Owner Representative for correction. A corrected SWPPP shall be submitted to the City within five (5) working days. Modifications to a SWPPP or “Land Disturbing Activity, Small Site” administrative permit shall be submitted to the City for review.

### **30.71 Storm Water Management Performance Standard and Design Criteria.**

A. All storm water must be discharged in a manner that does not cause nuisance conditions, erosion in receiving channels or on downslope properties, or inundation in wetlands causing an adverse impact to the wetlands.

B. Proposed design, suggested location and phased implementation of effective, practicable storm water management measures for “Land Disturbing Activities, Large Site” plans shall be designed, engineered and implemented to achieve the following results:

(1) Volume Control - The first half-inch of runoff from a 24-hour storm shall be infiltrated unless said infiltration is not practical in the opinion of the City Engineer.

(2) Runoff rate control. All runoff hydrological calculations shall be according to the methodology approved by the City Engineer. All storm water facilities shall be designed, installed and maintained to effectively accomplish the following:

(a) Maintain predevelopment peak runoff rates for the 2-year, 24-hour storm event.

(b) Maintain predevelopment peak runoff rates for the 10-year, 24-hour storm event. At a minimum the storm sewer conveyance system shall be designed for this storm event.

(c) Low areas must have an acceptable overland drainage route with the proper transfer capacity when the storm event is exceeded.

(d) Safely pass the 100-year, 24-hour storm event.

(3) Outlets – Storm water discharges must have a stable outlet capable of carrying designed flow at a non-erosive velocity. Outlet design must consider flow capacity and flow duration. This requirement applies to both the site outlet and the ultimate outlet to the storm water conveyance or waterbody.

(4) Facilities to treat and store runoff shall be required for all projects creating one acre or more of impervious surface. Such facilities may include alternatives to traditional detention, retention, and/or infiltration ponds. Alternative facilities are subject to approval of the City Engineer and the City Council.

(5) For projects proposing ponding, the design shall conform to the current requirements found in the National Pollution Discharge Elimination System Construction Permit. In addition, the following are required:

(a) Pond side slopes shall not exceed one (1) foot horizontal to four (4) vertical (1:4) and should provide a bench just at the normal water level with side slopes no less than one (1) foot horizontal to ten (10) feet vertical (1:10) for safety considerations.

- (b) All public and private owned storm water management facilities shall provide an unobstructed access path, a minimum of 20 feet, capable of supporting light truck traffic during normal weather for the purpose of conducting inspections of the facility and maintenance thereof. No private storm water facility may be approved unless an easement is provided to the City allowing for access for maintenance and inspection. Maintenance agreements before, during, and after development are also required.
- (c) To provide proper protection for adjacent property within the first tier from the pond, the design storm interval for the ponding area is a 100-year, 24-hour storm with correctly sized conveyances for 100-yr, 24-hour storm flows consistent with standards used by the cities, townships, counties, state, and federal agencies in planning for the flood protection of homes and public facilities. As an additional safety factor, the lowest floor and low opening elevation of a structure in a development should be at least three feet above the 100-year 24-hour elevation of the pond. The low floor and low opening elevation of structures that are adjacent to ponds should be certified by the builder during basement construction to ensure adequate freeboard. An emergency overflow system must be established for the health and safety of the area. If the area is landlocked (no natural drainage outlet), the low floor and low opening elevation of structures should be five feet above the calculated high water level.

### **30.72 Maintenance of Privately Owned Storm Water Management Systems.**

A. All storm water management systems that are owned by an entity other than the City and discharge within the City must be designed:

- (1) To minimize the need for maintenance;
- (2) To provide easy vehicle and personnel access for maintenance purposes; and,
- (3) Designed by a licensed professional engineer with design approved by the City Engineer.

B. It shall be the responsibility of the Owner to obtain any necessary easements or other property interests to allow access to privately owned storm water management facilities for inspection and maintenance purposes.

C. All privately owned storm water facilities shall be maintained in proper condition consistent with the performance standards for which they were originally designed. All privately owned storm water management systems must have an operation and maintenance plan that ensures continued effective removal of the pollutants carried in storm water runoff. The maintenance plan shall define who will conduct the maintenance, the type of maintenance and the maintenance intervals. All privately owned storm water management systems shall be operated and maintained in accordance with the plan.

D. All settled materials shall be removed and properly disposed of according to law.

### **30.73 Maintenance of Publicly Owned Storm Water Facilities.**

A. The City, at its sole discretion, may approve dedication by easement of storm water facilities to the public, require adequate access roads to such facilities be created and maintained free of debris, and require easements are maintained by abutting property owners.

B. The City shall annually perform the maintenance of in place storm water facilities within the City as provided for in the local water management plan, as described in the applicable development agreement, and/or as

provided for in the watershed management plan of affected watershed management organization(s) if there is no approved local water management plan.

C. The City shall notify the property owners abutting publicly owned storm water facilities if scheduled maintenance is needed according to periodic site inspections or maintenance plans on file.

### **30.74 Inspections.**

A. Inspections as defined in this provision do not fulfill the inspections and maintenance requirements as defined in the NPDES Permit for Construction Activities.

B. The City may conduct inspections of any site on which a Land Disturbing Activity is occurring on a regular basis to monitor erosion and sediment control practices. In all cases the inspectors will attempt to work with the Owner or Owner's Representative to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld, construction stop work orders may be issued by the City until erosion and sediment control measures meet the requirements of this Ordinance.

C. The City may conduct inspections of all privately owned Storm Water Management Systems at any reasonable time.

D. An Owner shall promptly allow the City and its authorized representatives, upon presentation of credentials to:

(1) Enter upon a site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys.

(2) Bring such equipment upon the permitted site as is necessary to conduct such inspections, surveys and investigations.

(3) Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of a NPDES Storm Water Permit for Construction Activities.

(4) Inspect the storm water pollution control measures.

(5) Sample and monitor any items or activities pertaining to storm water pollution control measures.

(6) Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be born by the Owner.

### **30.75 Enforcement.**

A. The City may take the following action in the event of a failure by the Owner or the Owner's Representative to meet the terms of this Ordinance:

(1) The City Engineer may issue a written stop work order upon his determination that construction, excavation or any other activity regulated by this Ordinance is taking place in violation of a NPDES Storm Water Permit for Construction Activities, a Watershed District permit, or this Ordinance. The Stop Work Order shall detail the violations, the recommended or suggested remedies necessary to correct the violations, and the time frame allowed in which the property owner is to correct the violations. The Order shall also indicate that the property owner has ten (10) business days from the receipt of the stop work order to appeal the order to the City Council. Upon receipt of a Stop Work Order, the person conducting the construction, excavation or other activity regulated by this Ordinance shall immediately cease the activity until authorization for such activity is granted by the City Engineer.

(2) Revoke any land use and building permits issued to the owner of the site, its contractor, or its representative.

(3) Conduct or hire a contractor to conduct remedial or corrective action on the development site or adjacent site affected by a failure in any erosion or sediment control measure.

(a) The Owner shall be personally liable for the cost to the city associated with correcting the failure or mitigating damage from the failure. As soon as the work has been completed and the cost determined, the City Administrator or other official shall prepare a bill for the cost and mail it to the Owner. The amount shall be immediately due and payable at the office of the City Administrator. If payment is not made within thirty days, payment may be made from any of the Owner's financial securities.

(b) The City Administrator shall, following completion of remedial or corrective action, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under M.S. § 429.101 against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

(4) Bring other actions against the Owner or Owner Representative to recover costs of remediation or meeting the terms of this Ordinance, which are not covered by financial securities.

(5) Any person, firm, or corporation failing to comply with or violating any of these regulations, shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both. Each day that a separate violation exists shall constitute a separate offense.

B. Maintenance and repair of a privately owned Storm Water Management System. The City may take the following action in the event of a failure by Owner or Owner Representative to meet the terms of this Ordinance:

(1) Conduct or hire a contractor to conduct maintenance and repair of a privately owned Storm Water Management System.

(a) The Owner shall be personally liable for the cost to the City associated with maintaining or repairing a privately owned Storm Water Management Systems. As soon as the work has been completed and the cost determined, the City Administrator or other official shall prepare an invoice for the cost and mail it to the Owner. The amount shall be immediately due and payable at the office of the City Administrator. If payment is not made within thirty days, payment may be made from any of the Owner's financial securities.

(b) The City Administrator shall, following completion of maintenance or repair, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under M.S. § 429.101 against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as Council may determine in each case.

(2) Bring actions against the Owner to require maintenance and repair of any privately owned Storm Water Management System.

### **30.76 Response Time and Notification.**

A. The following standards apply to all Small Site and Large Site Land Disturbing Activities until final stabilization has been achieved.

(1) If erosion breaches the perimeter of the site, the Owner or Owner Representative shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City, may more than seven (7) calendar days go by without corrective action being taken. When restoration to wetlands and other resources are required, the Applicant shall work with the appropriate agency to ensure that the work is done properly.

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

(3) Should the Owner or Owner Representative fail to respond to the failure of a sediment or erosion control measure as required herein, the City may initiate actions to conduct remedial and corrective actions required. Any notification required will be to the Owner or Owner Representative. Except during an emergency action, forty-eight (48) hours after notification by the City or seventy-two (72) hours after the failure of erosion control measures, whichever is less, the City at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the Owner or Owner Representative, the City has been unable to establish contact, the City may proceed with remedial and corrective work.

B. The following standards apply to all Large Site Land Disturbing Activities until final stabilization has been achieved.

(1) The schedule for inspection, maintenance, and repair of all erosion and sediment control measures shall be conducted as required in the NPDES Storm Water Permit for Construction Activities and Watershed District rules.

C. The following standards apply to maintenance and repair of a privately owned Storm Water Management Systems.

(1) The inspection, maintenance, and repair of all privately owned Storm Water Management Systems shall be conducted as required in the NPDES Storm Water Permit for Construction Activities.

(2) Should the Owner fail to maintain and repair a privately owned Storm Water Management System as required herein, the City may initiate actions to conduct required maintenance and repairs. Any required notification shall be by certified mail to the Owner. The City, at its discretion, may begin maintenance or repairs at any time following the expiration of the following time periods allowed for the Owner to complete all required maintenance or repairs:

- (a) Within 365 calendar days of the Owner's receipt of a notification to remove accumulated sediment from a retention basin.
- (b) Within 60 calendar days of the Owner's receipt of a notification to perform any repair or maintenance, other than removal of accumulated sediment from a retention basin, needed to remedy a condition that is not resulting in erosion or a visible release of sediment.
- (c) Within 14 calendar days of the Owner's receipt of a notification to perform any repair or maintenance needed to remedy a condition that is resulting in erosion or a visible release of sediment.

(3) Emergency Action. Notwithstanding any other provisions of the Ordinance, the City may enter property to repair, alter, or remove any erosion or sediment control measure or Storm Water Management System as needed to abate, remedy, or correct a condition that presents or may present an imminent or substantial danger to the health or welfare of persons downstream, or substantial danger to the environment. During such a condition the City may take immediate action, and then notify the Owner or Owner Representative as soon as possible.

## SEPTIC SEWER UTILITY

### 30.77 Septic Sewer Utility Definitions.

A. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall have the meanings hereinafter designated:

- (1) Act. The Federal Water Pollution Control Act also referred to as the Clean Water Act, as amended, 33. U.S.C. 1251, et seq.
- (2) ASTM. American Society for Testing Materials.
- (3) Authority. The City of Arlington, Minnesota or its representative thereof.
- (4) BOD<sub>5</sub> or Biochemical Oxygen Demand. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° Centigrade in terms of milligrams per liter (mg/l).
- (5) Building Drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning immediately feet outside the building wall.
- (6) Building Sewer. The extension from the building drain to the public sewer or other place of disposal, also referred to as a house connection or service connection.
- (7) City. The area within the corporate boundaries of the City of Arlington as presently established or as amended by ordinance or other legal actions at a future time. The term "City" when used herein may also be used to refer to the City Council and its authorized representative.
- (8) Chemical Oxygen Demand (COD). The quantity of oxygen utilized in the chemical oxidation of organic matter as determined by standard laboratory procedures, and as expressed in terms of milligrams per liter (mg/l).
- (9) Compatible Pollutant. Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES/SDS Permit if the treatment facilities are designed to treat such pollutants to a degree which complies with effluent concentration limits imposed by the permit.
- (10) Control Manhole. A structure specially constructed for the purpose of measuring flow and sampling of wastes.
- (11) Easement. An acquired legal right for the specific use of land owned by others.
- (12) Fecal Coliform. Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.
- (13) Floatable Oil. Oil, fat, or grease in a physical state, such that it will separate by gravity from wastewater.

- (14) Garbage. Animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.
- (15) Incompatible Pollutant. Any pollutant that is not defined as a compatible pollutant (Sec. 9) including non-biodegradable dissolved solids.
- (16) Industry. Any nongovernmental or nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, which is categorized in Divisions A, B, D, E, and I.
- (17) Industrial Waste. Gaseous, liquid, and solid wastes resulting from industrial or manufacturing processes, trade or business, or from the development, recovery, and processing of natural resources, as distinct from residential or domestic strength wastes.
- (18) Infiltration. Water entering the sewage system (including building drains and pipes) from the ground through such means as defective pipes, pipe joints, connections, and manhole walls.
- (19) Infiltration/Inflow (I/I). The total quantity of water from both infiltration and inflow.
- (20) Inflow. Water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash waters or drainage.
- (21) Interference. The inhibition or disruption of the City's wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the City's NPDES and/or SDS Permit. The term includes sewage sludge use or disposal by the City in accordance with published regulations providing guidelines under Section 405 of the Act or any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria applicable to the method of disposal or use employed by the City.
- (22) MPCA. Minnesota Pollution Control Agency.
- (23) National Categorical Pretreatment Standards. Federal regulations establishing pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment facilities which are determined to be not susceptible to treatment by such treatment facilities or would interfere with the operation of such treatment facilities, pursuant to Section 307 (b) of the Act.
- (24) National Pollutant Discharge Elimination System NPDES Permit. A permit issued by the MPCA, setting limits on pollutants that a permittee may legally discharge into navigable waters of the United States pursuant to Sections 402 and 405 of the Act.
- (25) Natural Outlet. Any outlet, including storm sewers and combined sewers, which overflow into a water-course, pond, ditch, lake or other body of surface water or ground water.
- (26) Non-contact Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added, is heat.



- (27) Normal Domestic Strength Waste. Wastewater that is primarily introduced by residential users with a BOD<sub>5</sub> concentration not greater than 150 mg/l and a suspended solids (TSS) concentration not greater than 175 mg/l.
- (28) Person. Any individual, firm, company, association, society, corporation, or group.
- (29) pH. The logarithm of the reciprocal of the concentration of hydrogen ions in terms of grams per liter of solution.
- (30) Pretreatment. The treatment of wastewater from industrial sources prior to the introduction of the waste effluent into a publicly-owned treatment works. (See Sec. 23).
- (31) Properly Shredded Garbage. The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than 1/2-inch (1.27 cm) in any dimension.
- (32) Sewage. The spent water of a community. The preferred term is wastewater.
- (33) Sewer. A pipe or conduit that carries wastewater or drainage water.
- (a) Collection Sewer. A sewer whose primary purpose is to collect wastewaters from individual point source discharges and connections.
  - (b) Combined Sewer. A sewer intended to serve as a sanitary sewer and a storm sewer.
  - (c) Forcemain. A pipe in which wastewater is carried under pressure.
  - (d) Interceptor Sewer. A sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.
  - (e) Private Sewer. A sewer which is not owned and maintained by a public authority.
  - (f) Public Sewer. A sewer owned, maintained and controlled by a public authority.
  - (g) Sanitary Sewer. A sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters which are not admitted intentionally.
  - (h) Storm Sewer or Storm Drain. A drain or sewer intended to carry storm waters, surface runoff, ground water, sub-surface water, street wash water, drainage, and unpolluted water from any source.
- (34) Shall is mandatory; May is permissive.
- (35) Significant Industrial User. Any industrial user of the wastewater treatment facility which has a discharge flow (1) in excess of 25,000 gallons per average work day, or (2) has exceeded five percent (5%) of the total flow received at the treatment facility, or (3) whose waste contains a toxic pollutant in toxic amounts pursuant to Section 307 (a) of the Act, or (4) whose discharge has a significant effect, either singly or in combination with other contributing industries, on the

wastewater disposal system, the quality of sludge, the system's effluent quality, or emissions generated by the treatment system.

(36) Slug. Any discharge of water or wastewater 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 the average 24-hour concentration of flows during normal operation and shall adversely affect the collection and/or performance of the wastewater treatment works.

(37) State Disposal System (SDS) Permit. Any permit (including any terms, conditions and requirements thereof) issued by the MPCA pursuant to Minnesota Statutes 115.07 for a disposal system as defined by Minnesota Statutes 115.01, Subdivision 8.

(38) Superintendent. The individual designated by the city from time to time to manage the city's wastewater treatment works. The superintendent may be a designated employee of a company contracted by the city to manage the wastewater treatment works.

(39) Suspended Solids (SS) or Total Suspended Solids (TSS). The total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater", latest edition, and referred to as non-filterable residue.

(40) Toxic Pollutant. The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse affects as defined in standards issued pursuant to Section 307 (a) of the Act.

(41) Unpolluted Water. Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards, and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities. (See "Non-contact Cooling Water", Sec. 23).

(42) User. Any person who discharges or causes or permits the discharge of wastewater into the City's wastewater disposal system.

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

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

(45) Watercourse. A natural or artificial channel for the passage of water, either continuously or intermittently.

(46) WPCF. The Water Pollution Control Federation.

### **30.78 Control By The Wastewater Superintendent.**

A. The Wastewater Superintendent shall have control and general supervision of all public sewers and service connections in the City, and shall be responsible for administering the provisions of this ordinance to the end that a proper and efficient public sewer is maintained.

### **30.79 Regulations For Using Collection System.**

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

B. It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance and the City's NPDES/SDS Permit.

C. Except as provided hereinafter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

D. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which is situated within the City and adjacent to any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the City, shall be required at the owner(s) expense to install a suitable service connection to the public sewer in accordance with provisions of this Code, within thirty (30) days of the date said public sewer is operational, provided said public sewer is within 500 feet of the structure generating the wastewater. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this section, an official thirty (30) day notice shall be served instructing the affected property owner to make said connection.

E. In the event an owner shall fail to connect to a public sewer in compliance with this chapter, the City must undertake to have said connection made and shall assess the cost thereof against the benefited property. Such assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the Auditor of the County of Sibley, Minnesota and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City shall be in addition to any remedial or enforcement provisions of this ordinance.

### **30.80 Building Sewers and Connections.**

A. Any new connection(s) to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to capacity for flow, BOD<sub>5</sub>, and Suspended Solids, as determined by the Superintendent.

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

C. Applications for permits shall be made by the owner or authorized agent and the party employed to do the work, and shall state the location, name of owner, street number of the building to be connected, and how occupied. No person shall extend any private building beyond the limits of the building or property for which the service connection permit has been given.

D. There shall be (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the application shall be supplemented by any plans, specifications, or any other information considered pertinent in the judgment of the City. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity.

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

F. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.

G. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent or his representative, to meet all requirements of this ordinance.

H. The size, slopes, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the State of Minnesota Building and Plumbing Code or other applicable rules and regulations of the City. In the absence of code provisions or in the amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No.9, shall apply.

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

(J) No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or indirectly to the wastewater disposal system.

(K) The connection of the building sewer into the public sewer shall conform to the requirements of the State of Minnesota Building and Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No.9. All such connections shall be made gastight and watertight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the City prior to installation.

(L) The applicant for the building sewer permit shall notify the City when the building sewer is

ready for inspection and connection to the public sewer. The connection and inspection shall be made under the supervision of the superintendent or authorized representative thereof.

(M) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work, shall be restored in a manner satisfactory to the City.

(N) No person shall make a service connection with any public sewer unless regularly licensed under this chapter to perform such work, and no permit shall be granted to any person except such regularly licensed person.

(O) Any person desiring a license to make a service connection with public sewers, shall apply in writing to the City Council with satisfactory evidence that the applicant or employer is trained or skilled in the business and qualified to receive a license. All applications shall be referred to the City Office for recommendations to the Council. If approved by the Council, such license shall be issued by the City Office upon the filing of a bond as hereinafter provided.

(P) No license shall be issued to any person until a bond to the City, approved as to form an amount by the Council, is filed with the City Office conditioned that the licensee will indemnify and save harmless the City from all suits, accidents, and damage that may arise by reason of any opening in any street, alley, or public ground, made by the licensee or by those in the licensee's employment for any purpose whatever, and that the licensee will replace and restore the street and alley over such opening to the condition existing prior to installation, adequately guard with barricades and lights and will keep and maintain the same to the satisfaction of the City Office, and shall conform in all respects to the rules and regulations of the Council relative thereto, and pay all fines that may be imposed on the licensee by law.

(Q) The license fee for making service connections shall be set by resolution of the City Council from time to time. All licenses shall expire on December 31<sup>st</sup> of the license year unless the license is suspended or revoked by the Council for cause. Upon failure to apply for a license renewal prior to the expiration date thereof, the license fee for the ensuing year shall be payable again as a new license fee.

(R) The Council may suspend or revoke any license issued under this article for any of the following causes:

- (1) Giving false information in connection with the application for a license.
- (2) Incompetence of the licensee.
- (3) Willful violation of any provisions of this article or any rule or regulation pertaining to the making of service connections.

### **30.81 Prohibited Storm Water Discharge.**

A. No person(s) shall discharge or cause to be discharged any unpolluted water such as storm water, ground water, roof runoff, surface drainage, or non-contact cooling water to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the City and other regulatory agencies. Industrial cooling water of unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the City and upon approval and the issuance of a discharge permit by the MPCA. To enforce this provision, the following rules shall apply:

(1) Roof drains, footing tiles, cistern overflow pipes and sump pumps or drains shall be so constructed as to discharge any waters carried by them either into the city storm sewer system or on the ground surface.

(2) Any roof drains, footing tiles, cistern overflow pipes, or sump pumps or drains currently connected directly or indirectly to the sanitary sewer system are to be immediately and permanently disconnected from the sanitary sewer system at the cost of the property owner.

(3) The City shall have the right to inspect all existing property in the City limits from time to time to determine if this ordinance is being complied with. If any violation of the ordinance is cited, the violator shall have 15 days to bring the property in compliance with this ordinance. The violator shall be fined \$25.00 per day for each day the property remains in violation after the 15 day grace period has expired. The violator subject to the fine includes the property owner, general contractor, subcontractor, or any other person found responsible for the violation.

(4) For all new construction and building changes affecting the disposal of storm, surface, or sanitary waste water, a City inspection shall be requested by the property owner or contractor as an addition to the standard City building permit. This inspection request must be made before construction begins. The inspection application shall be made to the City Office, on forms as approved by the City Council, and the City shall charge an inspection fee as set by the City Council from time to time. The purpose of this inspection will be to determine that the construction does not violate this ordinance. Failure to request this inspection shall result in a fine of \$100.00 levied upon the property owner, and a separate fine of \$100.00 levied upon the contractor. This fine shall be levied even if later inspection proves the property conforms to this ordinance. This fine shall be in addition to any fines levied under other parts of this ordinance for an actual illegal hookup to the sanitary sewer system.

(5) If any person fails to pay any fines for violation of this ordinance within 60 days after the fine has been charged by the City, the fine shall be placed on the tax roles against the affected land as an additional City assessment, to be paid in full in the first real estate tax billing following the violation.

### **30.82 Prohibited Materials, Waters and Wastes.**

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

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

(2) Solid or viscous substances which will 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 (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags,

spent grains, spent hops, waste paper, wood, plastic, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

(3) Any wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater disposal system.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307 (a) of the Act.

B. The following described substances, materials, water, or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either sewers, the wastewater treatment works treatment process or equipment, will not have an adverse effect on the receiving stream and/or soil, vegetation and ground water, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Superintendent may set limitations lower than limitations established in the regulations below if, in his opinion, such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability of wastes, the Superintendent will give consideration to such factors as the quantity of subject waste in reaction to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, the City's NPDES and/or SDS permit, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

(1) Any wastewater having a temperature greater than 150° F (65.6° C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104° F (40° C), or having heat in amounts which will inhibit biological activity in the wastewater treatment works resulting in interference therein.

(2) Any wastewater 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° F and 150° F (0° C and 65.6° C); and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/l, whether emulsified or not.

(3) Any quantities of flow, concentrations, or both which constitute a "slug" as defined herein. (See Article I, Section 36).

(4) Any garbage not properly shredded, as defined in Article I, Section 31. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food on the premises or when served by caterers.

(5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair.

(6) Any wastewater with objectionable color not removed in the treatment process, such as, but

not limited to dye wastes and vegetable tanning solutions.

(7) Non-contact cooling water or unpolluted storm, drainage, or ground water.

(8) Wastewater containing inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to sodium chloride and sodium sulfate) in such quantities that would cause disruption with the wastewater disposal system.

(9) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(10) Any waters or wastes containing the following substances to such degree that any such material received in the composite wastewater at the wastewater treatment works in excess of the following limits for such materials:

0.5 mg/l arsenic

0.5 mg/l cadmium

1.5 mg/l copper

0.5 mg/l cyanide

1.5 mg/l lead

0.05 mg/l mercury

1.5 mg/l nickel

0.5 mg/l silver

0.5 mg/l total chromium

1.5 mg/l zinc

phenolic compounds which cannot be removed by City's wastewater treatment system.

(11) Any wastewater which creates conditions at or near the wastewater disposal system which violates any statute, rule, regulation, or ordinance of any regulatory agency, or state or federal regulatory body.

(12) Any waters or wastes containing BOD<sub>5</sub> or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment works, except as may be permitted by specific written agreement subject to the provisions of Section 16 of this Article.

C. If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess the characteristics enumerated in Section 4 of this Article, and/or which in the judgment of the Superintendent, may have a deleterious effect upon the wastewater treatment facilities, processes, or equipment; receiving waters, and/or soil, vegetation, and ground water; or which otherwise create a hazard to life or constitute a public nuisance, the City may:

(1) Reject the wastes,

(2) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to Section 307 (b) of the Act and all addendums thereof,

(3) Require control over the quantities and rates of discharge, and/or,



(4) Require payment to cover the added costs of handling, treating, and disposing of wastes not covered by existing taxes or sewer service charges.

If the City permits the pretreatment or equalization of waste flows, the design, installation, and maintenance of the facilities and equipment shall be made at the owners' expense, and shall be subject to the review and approval of the City pursuant to the requirements of the MPCA.

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

E. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner(s).

F. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified herein (b), any flammable wastes as specified in herein, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of the type to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal of the captured materials by appropriate means, and shall maintain a record of dates and means of disposal which are subject to review by the Superintendent. Any removal and hauling of the collecting materials not performed by the owner's personnel, must be performed by a currently licensed waste disposal firm.

G. Where required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, or control manhole, with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. Such structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The structure shall be installed by the owner at his expense and shall be maintained by the owner to be safe and accessible at all times.

H. The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the City, be required to provide laboratory measurements, tests, or analyses of waters or wastes to illustrate compliance with this Ordinance and any special condition for discharge established by the City or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the City. The industry must supply a complete analysis of the constituents with Federal, State and local standards being met. The owner shall report the results of measurements and laboratory analyses to the City at such times and in such manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses, and reporting required by the City. At such times as deemed necessary, the City reserves the right to take measurements and samples for analysis by an independent laboratory.

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

J. Where required by the City, the owner of any property serviced by a sanitary sewer shall provide protection from an accidental discharge of prohibited materials or other substances regulated by this ordinance. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Superintendent for review and approval prior to construction of the facility. Review and approval of such plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this ordinance. Users shall notify the Superintendent immediately upon having slug or accidental discharge of substances of wastewater in violation of this ordinance to enable countermeasures to be taken by the Superintendent to minimize damage to the wastewater treatment works. Such notification will not relieve any user of any liability for any expense, loss or damage to the wastewater treatment system or treatment process, or for any fines imposed on the City on account thereof under any State and Federal law. Employers shall insure that all employees who may cause or discover such a discharge, are advised of the emergency notification procedure.

K. No person, having charge of any building or other premises which drains into the public sewer, shall permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer. Within thirty (30) days after receipt of written notice from the City, the owner shall install a suitable and sufficient catch basin or waste trap, or if one already exists, shall clean out, repair or alter the same, and perform such other work as the Superintendent may deem necessary. Upon the owner's refusal or neglect to install a catch basin or waste trap or to clean out, repair, or alter the same after the period of thirty (30) days, the Superintendent may cause such work to be completed at the expense of the owner or representative thereof.

L. Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall repair or cause such work to be done as the Superintendent may direct. Each day after thirty (30) days that a person neglects or fails to so act shall constitute a separate violation of this section, and the Superintendent may then cause the work to be done, and recover from such owner or agency the expense thereof by an action in the name of the City.

M. The owner or operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times, a catch basin or waste trap in the building drain system to prevent grease, oil, dirt or any mineral deposit from entering the public sewer system.

N. In addition to any penalties that may be imposed for violation of any provision of this chapter, the City may assess against any person the cost of repairing or restoring sewers or associated facilities damaged as a result of the discharge of prohibited wastes by such, applicable to the type of service.

O. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City of Arlington and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, providing that National Categorical Pretreatment Standards and the City's NPDES and/or State Disposal System Permit limitations are not violated, and the user pays Operation, Maintenance, and Replacement costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant, and no user is charged at a rate less than that of "Normal Domestic Strength Wastewater".

### **30.83 Damage of Wastewater Facilities.**

A. No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover,

deface or tamper with any structure appurtenance, or equipment which is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.

### **30.84 User Rate Schedule For Charges.**

A. Each user of sewer service shall pay the charge(s) applicable to the type of service, and in accordance with the provisions of ordinances and resolutions as may be adopted by the City Council.

### **30.85 Powers and Authority of Inspectors.**

A. The Superintendent or other duly authorized employees of the City, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing pertinent to the discharges to the City's sewer system in accordance with the provisions of this ordinance.

B. The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the type and source of discharge to the wastewater collection system. An industry may withhold information considered confidential however, the industry must establish that the revelation to the public of the information in question, might result in an advantage to competitors.

C. While performing necessary work on private properties, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article VI, Section 9 of this ordinance.

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

### **30.86 Septic Sewer Service Charge System.**

A. The City of Arlington hereby establishes a Septic Sewer Service Charge System whereby all revenue collected from users of the wastewater treatment facilities will be used to affect all expenditures incurred for annual operation, maintenance, and replacement and for debt service on capital expenditure incurred in constructing the wastewater treatment works.

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

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

D. Septic Sewer Service rates and charges to users of the wastewater treatment facility shall be determined and fixed in a "Septic Sewer Service Charge System" developed according to the provisions of this Ordinance. The Septic Sewer Service Charge System rates and charges shall be adopted by Council resolution from time to time.

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

### **30.87 Septic Sewer Service Charge System Definitions.**

Unless the context specifically indicates otherwise, the meaning of the terms used in this ordinance shall be as hereafter designated:

A. Administration. Those fixed costs attributable to administration of the wastewater treatment works (i.e., billing and associated bookkeeping and accounting costs).

B. Commercial User. Any place of business which discharges sanitary waste as distinct from industrial wastewater.

C. Debt Service Charge. A charge levied on users of wastewater treatment facilities for the cost of repaying money bonded to construct said facilities.

D. Governmental User. Users which are units, agencies or instrumentalities of Federal, State, or local government discharging Normal Domestic Strength wastewater.

E. Extra Strength Waste. Wastewater having a BOD<sub>5</sub> and/or TSS greater than domestic waste as defined in Article I, Section 7 above and not otherwise classified as an incompatible waste.

F. Incompatible Waste. Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in the receiving waters of the wastewater treatment works.

G. Industrial Users or Industries are:

(1) Entities that discharge into a publicly owned wastewater treatment works, liquid wastes resulting from the processes employed in industrial or manufacturing processes, or from the development of any natural resources. These are identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemental under one of the following divisions:

Division A – Agriculture, Forestry and Fishing

Division B – Mining

Division D – Manufacturing

Division E – Transportation, Communications, Electric, Gas, and Sanitary Sewers.

Division I – Services

For the purpose of this definition, domestic waste shall be considered to have the following

characteristics:

Bod <sub>5</sub>	Less than 150 mg/l
Suspended Solids	Less than 175 mg/l

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

H. Industrial Wastewater. The liquid processing wastes from an industrial manufacturing process, trade, or business including but not limited to all Standard Industrial Classification Manual Divisions A, B, D, E, and I manufacturers as distinct from domestic wastewater.

I. Institutional User. Users other than commercial, governmental, industrial or residential users, discharging primarily Normal Domestic Strength wastewater (e.g. Non-profit organizations).

J. Operation and Maintenance. Activities required to provide for the dependable and economical functioning of the treatment works, throughout the design or useful life, whichever is longer of the treatment works, and at the level of performance for which the treatment works were constructed. Operation and Maintenance includes replacement.

K. Operation and Maintenance Costs. Expenditures for operation and maintenance, including replacement.

L. Public Wastewater Collection System. A system of sanitary sewers owned, maintained, operated and controlled by the city.

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

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

O. Septic Sewer Service Charge. The aggregate of all charges, including charges for operation, maintenance, replacement, debt service, and other sewer related charges that are billed periodically to users to the City's wastewater treatment facilities.

P. Septic Sewer Service Fund. A fund into which income from Sewer Service Charges is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater treatment. Expenditure of the Sewer Service Fund will be for operation, maintenance and replacement costs; and to retire debt incurred through capital expenditure for wastewater treatment.

Q. Standard Industrial Classification Manual. Office of Management and Budget, 1972.

R. User Charge. A charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance, including replacement.

### **30.88 Determination of Septic Sewer Service Charges.**

A. Users of the City of Arlington wastewater treatment works shall be identified as belonging to one of the following user classes:

- 1) Residential
- 2) Commercial
- 3) Governmental
- 4) Institutional
- 5) Industrial

The allocation of users to these categories for the purpose of assessing User Charges and Debt Service Charges shall be the responsibility of the City Office. Allocation of users to user classes shall be based on the substantive intent of the definitions of these classes contained herein.

B. Each user shall pay operation, maintenance, and replacement costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant, with the minimum rate for loadings of BOD and TSS being the rate established for concentrations of 150 mg/l BOD and 175 mg/l TSS (i.e. Normal Domestic Strength Wastewater).

C. Those "Industrial Users" discharging segregated "Normal Domestic Strength Wastewater" only, can be classified as "Commercial Users" for the purpose of rate determination.

D. The charges assessed residential users and those users of other classes discharging "Normal Domestic Strength Wastewater" shall be established proportionately according to billable wastewater volume. Billable wastewater volume shall be calculated as follows:

(1) Residential Users.

Billable wastewater volume for residential users shall be calculated on 100 percent of the metered water usage throughout the year.

(2) Non-Residential Users.

The billable wastewater volume of non-residential users will be calculated on 100 percent of the metered water usage throughout the year or calculated on the basis of wastewater flow meters.

The City may, at its discretion, require non-residential users to install such additional water meters or wastewater flow meters as may be necessary to determine billable wastewater volume.

E. Determination of User Charges.

User Charges for Normal Domestic users shall be determined as follows:

(1) Calculation of Unit Cost for Treatment of Normal Domestic Strength Wastewater

$$Uomr = \frac{Comr}{Tbwv}$$

Where: Uomr = Unit cost for operation, maintenance and replacement in

Comr = Total annual OM & R costs.

Tbwv = Total annual billable wastewater volume in kgal.

B. Calculation of User Charge

$$Uc = Uomr \times bwv$$

Where: Uc = User Charge

Uomr = Unit cost for operations, maintenance and replacement in \$/kgal.

bwv = Billable wastewater volume of a particular user in kgal.

F. Recovery of Local Construction Costs. Local construction costs of the wastewater treatment facility will be recovered through a Debt Service Charge calculated using usage, connection and general taxes as follows:

(1) Calculation of Debt Service Unit Cost for Wastewater volume:

$$Uds = \frac{Cds}{Tbwv}$$

Where: Uds = Unit cost for debt service in \$/kgal

\*Cds = Cost of annual debt service assigned for wastewater volume.

Tbwv = Total annual billable wastewater volume in Kgal.

\*City may reduce the cost of annual debt service through the use of other City funds at its discretion.

(2) Calculation of Debt Service Billable Connection Cost:

$$UD = \frac{CDC}{TC}$$

Where: UD = Unit Billable Connection Cost for debt service.

\*CDC = Costs of Annual Debt Service Assigned for Connections.

Tc = Total Number of Billable Connections

\*City may reduce the cost of annual debt service through the use of other City funds at its discretion.

(3) A portion of the Debt Service will be paid by General Taxes. The City Council will determine the amount to be paid annually.

(4) Calculation of Debt Service Charge

$$Dc = Uds \times bwv + UD \times U$$

Where: Dc = Debt Service Charge  
Uds = Unit Cost for Debt Service in \$/Kgal  
UD = Unit Billable Connection Cost for Debt Service  
U = Number of Billable Connections for Particular User  
bwv = Billable Wastewater Volume of a Particular User in Kgal.

G. Determination of Sewer Service Charges. The Sewer Service Charge for a particular connection shall be determined as follows:

$$SSC = Uc + Dc$$

Where: SSC = Sewer Service Charge  
Uc = User Charge  
Dc = Debt Service Charge

H. The Sewer Service charges established in this Ordinance shall not prevent the assessment of additional charges to users who discharge wastes with concentrations greater than Normal Domestic Strength or wastes of unusual character, or contractual agreements with such users, as long as the following conditions are met:

- (1) The user pays Operation, Maintenance, and Replacements costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant, and not user is charged at a rate less than that of "Normal Domestic Strength Wastewater".
- (2) The measurements of such wastes are conducted according to the latest edition of Standard Methods for the Examination of Water and Wastewater in a manner acceptable to the City as provided for in Ordinance No. 133 "An Ordinance Establishing Sewer Use Regulations".

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

### **30.89 Septic Sewer Service Fund.**

A. The City of Arlington hereby establishes a "Septic Sewer Service Fund" as an income fund to receive all revenues generated by the Sewer Service Charge System, and all other income dedicated to the operation, maintenance, replacement and construction of the wastewater treatment works, including taxes, special charges, fees, and assessments intended to retire construction debt.

The City also establishes the following accounts as income and expenditure accounts within the Sewer Service Fund:

- (1) Operation and Maintenance Account
- (2) Equipment Replacement Account
- (3) Debt Retirement Account

B. All revenue generated by the Septic Sewer Service Charge System, and all other income pertinent to the treatment system, including taxes and special assessments dedicated to retire construction



debt, shall be held by the City separate and apart from all other funds of the City. Funds received by the Septic Sewer Service Fund shall be transferred to the "Operation and Maintenance Account," the Equipment Replacement Account," and the "Debt Retirement Account" in accordance with State and Federal regulations and the provisions of this ordinance.

C. Revenue generated by the Septic Sewer Service Charge sufficient to insure adequate replacement throughout the design of useful life, whichever is longer, of the wastewater facility shall be held separate and apart in the "Equipment Replacement Account" and dedicated to affecting replacement costs. Interest income generated by the "Equipment Replacement Account" shall remain in the "Equipment Replacement Account."

D. Revenue generated by the Septic Sewer Service Charge System sufficient for operation and maintenance shall be held separate and apart in the "Operation and Maintenance Account."

### **30.90 Administration.**

The Septic Sewer Service Charge System and Septic Sewer Service Fund shall be administrated according to the following provisions.

A. The City Office shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement and debt retirement costs of the treatment works, and shall furnish the City Council with a report of such costs annually in January.

The City Council shall annually determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement and management of the treatment works, and whether sufficient revenue is being generated for debt retirement. The Council will also determine whether the user charges are distributed proportionately to each user in accordance with Article II, Section 2 of this Ordinance and Section 204 (b) (2) (A) of the Federal Water Pollution Control Act, as amended.

The City shall thereafter, but not later than the end of the year, reassess, and as necessary revise the Septic Sewer Service Charge System then in use to insure the proportionality of the user charges and to insure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire construction debt.

B. In accordance with Federal and State requirements each user will be notified annually in conjunction with a regular billing of that portion of the Septic Sewer Service Charge attributable to operation, maintenance and replacement.

C. In accordance with Federal and State requirements, the City Office shall be responsible for maintaining all records necessary to document compliance with the Septic Sewer Service Charge System adopted.

D. The owner of the premises, shall be liable to pay for the service to such premises, and the service is furnished to the premises by the City only upon the condition that the owner of the premises is liable therefore to the City.

E. Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and

restoration of the receiving waters and environs, and sludge disposal, shall be borne by the discharger(s) of said wastes, at no expense to the City.

### **30.91 Collection Remedies.**

A. Each and every sewer service charge levied by and pursuant to this Ordinance is hereby made a lien upon the lot or premises serviced, and all such charges which are on December of each year past due and delinquent, shall be certified to the County Auditor as taxes or assessments on the real estate. Nothing in this Ordinance shall be held or construed as in any way stopping or interfering with the right of the City to levy as taxes or assessments against any premises affected any delinquent or past due sewer service charges.

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

C. In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being serviced by the treatment works shall be liable for interest upon all unpaid balances at the State's allowable interest rate.

### **30.92 Severability and Validity.**

A. If any section or subdivision of this Ordinance shall be held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance, which shall continue in full force and effect.

B. The sewer service charge system shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of Section 204 (b) (1) (A) of the Clean Water Act and Federal Regulation 40 CFR (Code of Federal Regulations) 35.2140 of the Environment Protection Agency's grant regulations.

### **30.93 Private Sewer System Unlawful.**

A. It shall be unlawful for any person to install a new private or community sewer system in the city limits.

B. In newly platted areas, only lots that have city water and sewer service can be issued a building and occupancy permit. In no circumstances will new private sewers/holding tanks be allowed.

C. For those households within city limits that currently do not have city sewer connections and have private sewer/holding tanks, mandatory hookup to city sewer will be required prior to transfer or sale of property, when private septic system fails, or no later than September 1, 2020, whichever of said three events happens first.

D. To determine whether or not such public sewer is available for an existing private connection each person or corporation must make application for connection to the public system within 60 days of adoption of said ordinance.

Upon determination of the Code Enforcement Officer that access to the public sewer system is not within 500 feet of the applicant's structure that requires sewer services and the Council determines it is not financially feasible for the City to provide access to connect the applicant's premises (structure) to the public sewer system, then the applicant shall be granted a permit to continue the use of their private sewer system for a maximum increment of two (2) years. The applicant shall provide a valid Certificate of Compliance for the private sewer system with the application. All private sewer systems must comply with Minnesota Rules Chapter 7080 and the City of Arlington's Septic Ordinance. After the application expires, the process would have to be repeated and reviewed. A fee may be charged for this permit with costs set by Council resolution.

E. All existing private sewers within city limits that are on property already connected to the city sewer system will be removed and rendered inoperable (i.e. pumped and filled with dirt or sand) at the property owner's expense and in accordance with Minnesota Department of Health requirements on or before October 1, 2007.

F. Owners of existing private sewers must present the City of Arlington with documentation of completion of dismantling the private sewer by October 1, 2007.

G. Abatement: The Code Enforcement Officer shall be charged with the enforcement of verifying sealing of any non-permitted private sewers that exist on premises in the city. The Officer shall notify in writing the owner or occupant of the premises of such fact and order that such sewer be dismantled. The notice shall be served in person, or by certified or registered mail. If the notice is not complied with within the time specified (60 days), the Enforcement Officer shall report that fact forthwith to the City Council. Thereafter the City Council shall cause the sewer to be dismantled by the City.

H. Recovery of Costs: Personal Liability: The owner of premises on which the City has dismantled a sewer shall be personally liable to the City for the cost of the work, including administrative costs. As soon as the work has been completed and the costs determined, the City Clerk shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the Office of the City Clerk.

I. Assessment: Once the sewer is sealed and billed to the owner, the City Clerk shall, on or before December 1 next following the abatement of the sewer, list the total unpaid charges along with all other such charges, as well as other charges for current services to be assessed under Minnesota Statutes section 429.101, or any laws amending or replacing such law, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against such property under that statute and other pertinent statutes for certification to the County Auditor and collection along with the current taxes the following year or in annual installments, not exceeding ten (10) years as the City Council may determine in each case.

J. Properties Exempt: Properties that pose a financial burden to the City when considering the extension of the public sewer system to the property may be deemed exempt from this ordinance. Exemption from this ordinance is at the sole discretion of the City Council based on the financial burden to the City. If the City Council grants such an exemption, it must do so by adopting a resolution exempting a parcel or parcels from this ordinance. The resolution shall state the reason for the exemption and that the exemption would be reviewed periodically.

## **WATER UTILITY**

### **30.94 Water System Superintendent.**

The City Council shall appoint a Superintendent from time to time, to manage the water delivery system in the City of Arlington, to include all water wells, water treatment plants, water towers and water delivery pipes, usage meters, and any other components of said water system. The Superintendent may be a city employee, or a designated employee of a company contracted by the city to manage the water delivery system.

### **30.95 Water Hookup and Delivery Charges.**

The City Council, from time to time, but no less often than yearly, shall set fees for connection of private property to the city water delivery system, inspections, and water supply rates. All such fees and charges shall be deposited into the City water utility fund.

### **30.96 Water Meters**

The City shall supply at its cost water meters to monitor the use of city water supply by private properties. The City shall be responsible for the maintenance, repair and replacement of such meters, except that any person damaging or destroying a water meter, either by negligence or intentional act, shall be charged for the cost of repair or replacement of such meter.

### **30.97 Inspection of Meters.**

The Superintendent or such other person as may be authorized by the City shall have the right to enter and have free access to premises at all reasonable hours, for the purpose of conducting meter readings, and to inspect, maintain, repair or replace such meters.

### **30.98 Plumbers.**

Only plumbers currently licensed under Minnesota Department of Labor and Industry regulations and their registered apprentices under supervision of licensed plumbers shall be allowed to perform installations and connections to the city water supply system. The City, in its sole discretion, may require a bond in an amount and form as determined by the City, from any such installer, prior to allowing work to be performed affecting the city water supply system, city streets, sidewalks, or other city rights of way.

### **30.99 City Standards.**

All construction, repair, maintenance or replacement of the city water supply system or any connections thereto shall be done to comply with all relevant government codes and standards, including City policies and procedures established by the City Council by resolution from time to time.

### **30.100 Water Service Connection Permits.**

No connections shall be made to the city water supply system until a permit has been obtained from the City Office for such work, under forms, procedures and fees as set by the City Council from time to time.

### **30.101 No City Liability.**

The City shall have no liability for interruption of water supply service by reason of any system component failure, stoppage of any part of the system for necessary repairs or replacements, or from any other cause whatsoever. Private property owners shall be solely responsible for the maintenance, repair or replacement of all components of the supply system from the shut-off value to and including the internal plumbing system of the property.

### **30.102 Water Crisis Suspension.**

The City reserves the right to suspend the use of city supplied water for use in the watering of yards and gardens, the filling of swimming pools, or other water uses not related to basic life functions, in order to conserve water as needed to adjust for any city water supply emergency.

### **30.103 Water Connection Outside City Limits.**

A. The City Council in its sole discretion may approve the application of a property owner outside the city limits for city water service hookup, subject to the following limitations:

- (1) The property owner must initiate the application for the water service and pay any application and initial hookup fee required by the city, which shall be set by the city Council from time to time.
- (2) Only single family residences outside the city limits will be eligible for city water service hookup.
- (3) The property to be served must directly abut the city boundary and city water main.
- (4) The City Council, in its sole discretion, must determine that the city water system capacity is sufficient both to serve the residents of the city and the property outside city limits, considering also emergency fire and other capacity demands.

B. The owner and/or occupant of each premises located outside city limits receiving city water service shall be subject to all the rules, regulations and rates adopted by the city and to any modifications thereof, pertaining to the city's water system.

C. The property owner will pay the entire cost of installing the water line including the connection with the city water main. The materials, method and workmanship for the service line and the connection to the water main must be approved by the city, and a city representative must be present to inspect the service line and water main connection at the time of installation.

D. Any future maintenance, repair, or replacement of the water service line or its connection to the water main shall be done at the property owner's cost, again in keeping with the city's standards and requiring city inspection of the repair or replacement.

E. The property owner shall pay for the material and installation of a water meter as approved by the city, to monitor the water usage for that property. If the water meter ceases to function, a new water meter shall be installed at the city's cost, except that if a water meter ceases to function due to the negligence of the property owner, then the water meter shall be replaced at the cost of the property owner.

F. The City Council reserves the right, in its sole discretion, to deny any or all future applications by property owners outside the city limits for city water service.

### **30.104 Private Water System Unlawful.**

A. It shall be unlawful for any person to install a new private or community water system and/or well in the city limits.

B. In newly platted areas, only lots that have city water and sewer service can be issued a building and occupancy permit. In no circumstances will new private wells be allowed.

C. For those households within city limits that currently do not have city water connections and have private wells, mandatory hookup to city water will be required prior to transfer or sale of property, when private well fails, or no later than September 1, 2020, whichever of said three events happens first.

D. To determine whether or not such public water is available for an existing private connection each person or corporation must make application for connection to the public system within 60 days of adoption of said ordinance.

Upon determination of the Code Enforcement Officer that access to the public water system is not within 500 feet of the applicant's structure that requires the public water system and the Council determines that it is not financially feasible for the City to provide access to connect the applicant's premises to the public water system, then the applicant shall be granted a permit to continue the use of their private system (well) for a maximum increment of two (2) years. After the application expires, the process would have to be repeated and reviewed. Properties that are using the public sewer system and a private well as a water supply shall attach an automated metering system to the private well that will be read by city staff for billing usage of the public sewer system until the property is connected to the public water system. Cost of the automated metering system shall be billed to the property owner. Each well shall be tested yearly by the owner or by the City and the results reported to the City. A fee may be charged for this permit with costs set by Council resolution.

E. All existing private wells within city limits that are on property already connected to the city water system and are not being used solely for ground irrigation will be sealed at the property owners expense and in accordance with Minnesota Department of Health requirements on or before October 1, 2007.

F. Owners of existing private wells must present the City of Arlington with documentation of completion of sealing the private well by October 1, 2007.

G. Abatement: The Code Enforcement Officer shall be charged with the enforcement of verifying sealing of any non-permitted private wells that exist on premises in the City. The Officer shall notify in writing the owner or occupant of the premises of such fact and order that such well be sealed. The notice shall be served in person, or by certified or registered mail. If the notice is not complied with within the time specified (60 days), the Enforcement Officer shall report that fact forthwith to the City Council. Thereafter the City Council shall cause the well to be sealed by the City.

H. Recovery Costs: Personal Liability: The owner of premises on which the City has sealed a well shall be personally liable to the City for the cost of the sealing, including administrative costs. As soon as the work has been completed and the costs determined, the City Office shall prepare a bill for the

cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the City Office.

I. Assessment: Once the well is sealed and payment is not received, the City Office shall, on or before December 1 next following the abatement of the well, list the total unpaid charges along with all other such charges, as well as other charges for current services to be assessed under Minnesota Statutes Section 429.101, or any laws amending or replacing such law, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against such property under that statute and other pertinent statutes for certification to the County Auditor and collection along with the current taxes the following year or in annual installments, not exceeding ten (10) years as the City Council may determine in each case.

J. Properties Exempt: Properties that pose a financial burden to the City when considering the extension of the public water system to the property may be deemed exempt from this ordinance. Exemption from this ordinance is at the sole discretion of the City Council based on the financial burden to the City. If the City Council grants such an exemption, it must do so by adopting a resolution exempting a parcel or parcels from this ordinance. The resolution shall state the reason for the exemption and that the exemption would be reviewed periodically.

## **PENALTIES**

### **30.105 Penalties.**

In addition to the remediation and other administrative remedies called for above, any violation of this ordinance shall be considered a misdemeanor, punishable by the fines and other penalties established under state law for misdemeanors in effect on the date the violation occurs.