

# **LAKE WALES**

## **OFFICIAL CODE OF ORDINANCES**

### **CHAPTER 21. UTILITIES**

# LAKE WALES

## CHAPTER 21. UTILITIES

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# LAKE WALES

## CHAPTER 21. UTILITIES

### Article I. Utility System—In General

#### **§ 21-1. Definitions and rules of construction.**

(a) When used in this chapter, the following words, terms or phrases shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

*BOD* (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) days at twenty (20) degrees Celsius expressed in milligrams per liter (mg/l) under standard laboratory procedures as called for in the most current edition of "Standard Methods for the Examination of Water and Wastewater," published jointly by the American Public Health Association, Inc., American Water Works Association and Water Environment Federation.

*Building* shall mean any structure built on-site or manufactured off-site for residential, institutional, commercial or industrial use and from which sewage is discharged.

*Building official* shall mean the Building Official of the City of Lake Wales or his authorized and designated agent

*Bulkhead* shall mean a temporary device constructed to exclude all water from entering a sanitary sewer system from a sanitary sewer system under construction.

*CFR* shall mean the most recently published edition of the Code of Federal Regulations.

*Commercial* shall mean any business engaged primarily in the sale of goods or services. Wherever rates are referred to as commercial rates, or as applicable to commercial customers, they are intended to apply to all such customers or services except residential or industrial. For the purposes of this chapter, commercial shall also apply to rates charged to schools, churches and governmental agencies.

*DEP* shall mean the State of Florida Department of Environmental Protection, previously known as the Department of Environmental Regulation (DER).

*Director of utilities* shall mean the Director of Utilities of the City of Lake Wales or his authorized and designated agent.

*Duplexes and triplexes.* "Duplex" refers to any single building divided into two (2) separate dwelling units. "Triplex" refers to any single building divided into three (3) separate dwelling units.

*F.A.C.* shall mean the most recently published edition of the Florida Administrative Code.

*Finance director* shall mean the Finance Director of the City of Lake Wales or his authorized and designated agent.

*F.S.* shall mean the most recently published edition of Florida Statutes.

*Garbage* shall mean solid waste from the domestic and the commercial preparation of cooking and dispensing of foods, and from the handling, storage, and sale of produce.

*Industrial* applies to all connections serving operations involving manufacturing or processing, which will result in a waste not classified as sanitary sewage, or which will not apply to commercial or residential definitions.

*Industrial wastes* shall mean the liquid waste received from the operation involving manufacturing or a processing operation.

*Meter* shall mean a device for measuring and recording the quantity or rate of flow of water passing through it from the city's utility system to the user. The type of meter to be used shall be determined by the city.

*Meter installation* shall mean connecting a new water service to the city's utility system as a result of new construction. Meter installation shall also mean the initial installation of a separate meter for irrigation purposes in accordance with section 21-73. Meter installation shall not mean replacement of an existing meter that is faulty.

*Multifamily housing* refers to any building containing four (4) or more dwelling units.

*Natural outlet* shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

*On-site sewage treatment and disposal system* shall mean a permitted system that contains a standard subsurface, filled or mounded drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a dosing tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has a legal right to install a system. The term does not include package sewage treatment facilities and other treatment works.

*Owner* shall mean part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or of a part of a building, lot or parcel of land.

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

*Plumbing system* shall mean any piping system contained on private property to be used to carry sanitary sewer, commercial or industrial wastes, to the sewer system owned and maintained by the city.

*Properly shredded garbage* shall mean the wastes from the preparation, cooking and dispensing of food that has been ground to such degree that all particles will be carried freely under the flow conditions normally prevailing in the sanitary sewers, with no particle greater than one-half (½) inch (1.27 cm) in any dimension.

*Sanitary sewer* shall mean sewer system, gravity sewer, pumping stations, etc., or any structure so designed to carry sewage, and to which storm, surface and ground water are not intentionally admitted, that is owned and operated by the city.

*Septic system* shall mean a permitted, private on-site sewage treatment and disposal system employing subsurface soil absorption facilities and shall include the terms "septic tank" and "cesspool".

*Sewage* shall mean a combination of water-carried wastes from buildings used for residential, institutional, commercial, industrial, and other like purposes.

*Sewage works* shall mean all facilities for collecting, pumping, treating and disposing of sewage.

*Sewer system* shall mean the complete sewer and wastewater system now owned, operated and maintained by the city and which the city is responsible for maintaining, together with any and all improvements, extensions and additions thereto, hereafter constructed or acquired, together with all lands or interests therein, including plants, buildings, machinery, franchises, pipes, mains, fixtures, equipment and all property, real or personal, tangible or intangible (including agreements for the providing of such services), now or hereafter constructed and/or owned or used in connection therewith.

*Single-family residence* refers to dwelling accommodations designed for one (1) family unit, maintaining separate and independent housekeeping, including at least one (1) kitchen, serviced by a separate water meter.

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

*Storm drain*, sometimes termed "storm sewer," shall mean a drainage line which carries storm and surface water run-off, but excludes sewage and industrial wastes, other than unpolluted cooling water.

*Stormwater detention/retention area* shall mean a natural or man-made basin or structure utilized for the temporary or permanent storage of stormwater.

*Stormwater system* shall mean the complete system of drainage pipes, lines, swales, gutters, retention/detention areas and other structures now owned, operated and maintained by the city for the purpose of stormwater management together with any and all improvements, extensions and additions thereto, hereafter constructed or acquired, together with all lands or interests therein, including plants, buildings, machinery, franchises, pipes, mains, fixtures, equipment and all property, real or personal, tangible or intangible (including agreements for the providing of such services), now or hereafter constructed and/or owned or used in connection therewith.

*Suspended solids* shall mean solids that either float on the surface or in suspension in water, sewage or other liquids and which are removable by filtration.

*Utility service area* shall mean the area defined in section 21-2 as the area within which the city shall have the first right to provide water and/or sewer services to any customer residing or doing business within the area and to deliver said service in accordance with the city's general practice, policy and procedures.

*Utility system* shall mean the water system, the sewer system, the reclaimed water system (treated effluent reuse/disposal), and the stormwater system of the city.

*Water system* shall mean the complete water system now owned, operated and maintained by the city and which the city is responsible for maintaining, together with any and all improvements, extensions and additions thereto, hereafter constructed or acquired, together with all lands or interests therein, including plants, buildings, machinery, franchises, pipes, mains, fixtures, equipment and all property, real or personal, tangible or intangible (including agreements for the providing of such services), now or hereafter constructed and/or owned or used in connection therewith.

(b) For the purposes of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply:

In case of any difference of meaning or implication between the text of this chapter and any caption, schedule, illustration, summary table, or illustrative table, the text shall control.

The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

The words "he," "his," and other words denoting the masculine gender shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Words used in the present tense shall include the future, and words used in the singular number shall include the plural and plural the singular, unless the context clearly indicates the contrary.

The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."

Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either... or," the conjunction shall be interpreted as follows:

- (1) "And" indicates that all the connected terms, conditions, provisions or events shall apply.
- (2) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- (3) "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (4) The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 98-06, § 1, 4-27-98; Ord. No. 2007-06, § 1, 4-4-07)

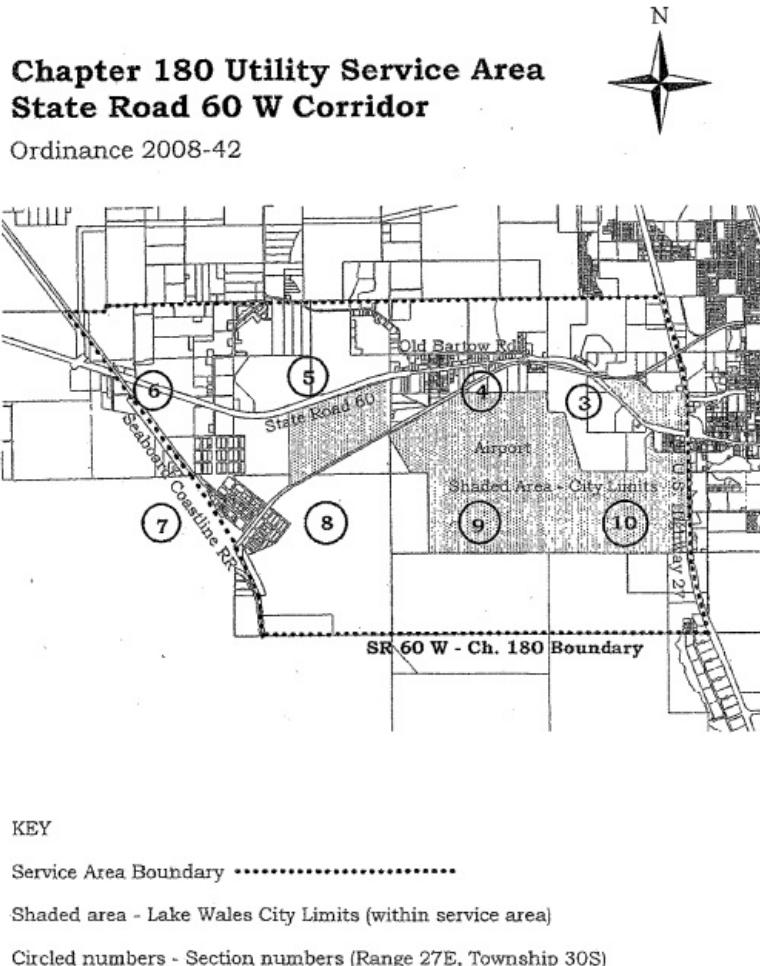
## **§ 21-2. Creation of Exclusive Service Area; Extension of services—Generally.**

*Effective: Wednesday, September 07, 2022*

(a) Pursuant to the Charter of the City of Lake Wales ("Charter"), the City's municipal home rule powers under Chapter 166, Florida Statutes, and Chapter 180, Florida Statutes, the City of Lake Wales hereby creates the "Lake Wales Exclusive Utility Service Area" for the purpose of delivering to that area water, wastewater, and reclaimed water services and exercising within that area, the powers provided by law. The area to receive the services set forth above shall be as described in Exhibit "A" and depicted in Exhibit "A" attached to and incorporated in this Ordinance. All of the provisions or benefits of the Charter, and only to the degree necessary, Chapter 180, Florida Statutes, are hereby made available to the City of Lake Wales, Florida, within said zone or area including, but not limited to, the exclusive provision of water, wastewater, alternative water supply, reclaimed water, aquifer storage and recovery, and desalinization systems and services.

(b) The City hereby declares that, subject to a customer's or property owner's compliance with City rate ordinances, and service extension policies, the City has a duty to serve water, wastewater, and reclaimed water service to all property owners and potential customers within the City's Exclusive Service Area, provided the Florida Public Service Commission ("FPSC") or another City has not certified or franchised that area.

(c) No person or entity other than the City and/or its designee shall provide water, wastewater, or reclaimed water service (other than bottled water) to any person, firm, corporation, or government, within the City's Exclusive Service Area without the City's express written permission which shall not be unreasonably withheld. No person or entity other than the City and/or its designee shall construct or use water, wastewater, and/or reclaimed water transmission lines, pipes, mains, pump stations or the like on or within the established rights-of-way for the purpose of providing water, wastewater, and/or reclaimed water service to land located within the City's Exclusive Service Area without the City's express written permission.



(d) Utility services shall be extended within the utility service area at the sole discretion of the city. Whenever economically feasible and deemed to be in the best interest of the utility system, such extension of services shall be at the expense of the city. A developer or property owner may assume all or part of the expense of service extension when the expense is not economically feasible for the city provided such extension is deemed to be in the best interest of the utility system and provided that all requirements of this chapter are met.

(e) The city shall reserve the right at all times to refuse extension of the utility system when such extension is not economically feasible, for noncompliance with the policies, rules and regulations established by this chapter or with any duly adopted city resolution or ordinance, or for any other cause whereby such extension will not benefit or may be detrimental to the best interest of the utility system.

(f) In accordance with Chapter 180, Fla. Stat., all persons or corporations living or doing business within the city utility service area shall be required to connect, when available, with the city utility system and shall be subject to all rules, regulations and rates provided by this chapter.

(g) Notwithstanding anything to the contrary contained in this ordinance, the City's right and duty to serve shall not be construed to interfere with those properties currently certificated for private utility service by the Florida Public Service Commission ("FPSC") or those properties upon which the owner is currently self-providing central water and/or wastewater service to its own business."

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 98-06, § 1, 4-27-98; Ord. No. 99-01, § 1, 5-4-99; Ord. No. 2005-22, § 1, 6-21-05; Ord. No. 2008-43, § 1, 12-2-08; Ord. No. 2008-42, § 1, 1-6-09; Ord. No. 2022-40, § 2, 9-7-22)

### **§ 21-3. Extension of services—Outside the city limits.**

*Effective: Wednesday, September 07, 2022*

(a) Applications shall be accepted for utility service to a property outside the city limits so long as:

- (1) The property lies within the "Chapter 180 Utility Service Area — State Road 60 W Corridor"; or
- (2) The state department of environmental protection has requested that the city provide service to the property to address an environmental quality issue; or
- (3) An agreement to serve the property was executed by the city and the property owner.

(b) With each application for utility service outside the city limits, an executed annexation agreement must be provided which shall be recorded in the official records of the county if said application for service is accepted. If the property is contiguous to the city limits or is otherwise eligible for annexation, the city shall annex the property within three (3) months of the provision of service.

(c) Service charges, if any, for outside-city users shall be one hundred twenty-five (125) percent of the applicable charges and fees for inside-city users.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2008-43, § 1, 12-2-08; Ord. No. 2008-42, § 1, 1-6-09; Ord. No. 2022-40, § 3, 9-7-22)

### **§ 21-4. Construction of utility lines and other additions to the system.**

(a) *Design.* Plans and specifications for all authorized utility extensions and installations shall be in compliance with the standards of the city and shall be prepared and signed by a professional engineer registered in the state; the only exception to this a minor extension done by the city. All plans and specifications for these extensions and appurtenances which are to be connected to the city's utility system shall be approved by the director of utilities or his designated agent prior to starting construction. For utility extensions not designed and constructed by the city, the applicant shall furnish six (6) copies of as-built plans and two (2) sets of reproducible Mylar as-built plans showing the completed work, together with an affidavit of periodic and final inspections by a registered, professional engineer certifying that work as constructed complies with the approved city standards. These as-built plans shall be filed with the director of utilities, or designated agent for his approval, before the completed utility extension is accepted by the city.

(b) *Location and installation.* All authorized municipal utility extensions under the terms of this chapter shall be located only in public rights-of-way or in easements acceptable to the city. Pumping stations, force mains and related appurtenances shall be constructed only in public rights-of-way or on municipally-owned properties. However, the city may require a commercial developer to locate a pumping station on private property and require a maintenance agreement signed by the owner of the property prior to connection. Actual interconnection of a new extension with the existing municipal utility shall be prohibited by omitting a connection section or by placing a temporary bulkhead in the connecting lines until the new extension has been fully inspected and all other conditions for extension of the service have received the approval of the city.

(c) *Installation standards.* In the building and installation of all sewers and connections to sewers, water lines and connections to water lines, or any other addition to the utility system, all work and materials shall be in accordance with the city's requirements and standards as stated in City of Lake Wales Utility Standards and Specifications and Chapter 7, Buildings and Building Regulations, Lake Wales Code of Ordinances. All work and materials shall be subject to the inspection and approval of the director of utilities or his designated agent.

(d) *Approval and permits from other governmental agencies.* The applicant and/or his engineer shall receive approval from the state department of transportation and/or the county for the use of any public road right-of-way. Also, the applicant must secure any approvals from the state department of environmental protection, the department of health and rehabilitative services and any successor or additional regulatory agency of the state or federal government.

(e) *Ownership.* The ownership of any extension and related appurtenances to any municipal utility system installed within the public right-of-way or easement and connected to the existing municipal utility system in accordance with this chapter shall at all times remain with the city upon completion and acceptance of such utility extension. An agreement shall be executed between the city and the applicant to include the provisions of this chapter before authorization can be given for the extension of any municipal utility funded at private expense.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 96-22, § 1, 11-19-96)

### **§ 21-5. Utility easement accessibility.**

(a) Easements or rights-of-way wherein lie water or wastewater mains, pumping stations, fire hydrants, manholes, meters, backflow preventers, or any other utility service device or component of the utility system must remain accessible to utilities department personnel or personnel of any firm contracted by the city in association with the operation and maintenance of the utility system and its various components. Operations shall include, but not be limited to, the installation and maintenance of system components, inspection and testing of backflow preventers, and monthly reading of water meters for billing purposes.

(b) Any obstruction such as fencing, landscaping, dumpsters, yard trash, etc. that is placed within an easement or right-of-way and which prevents or hinders the operation of the utility system shall be removed or relocated at the property owner's expense within thirty (30) days after notification to do so by the director of utilities. Failure to remove the obstruction within the allotted time period shall result in the utility customer residing at the property in question receiving a utility bill reflecting the highest monthly consumption during the previous twelve (12) month period.

(c) The city and its contractor shall be held harmless for any damage to private property resulting from an obstructed easement or right-of-way during emergency repair or normal operation of the system.

(d) Any repair of an obstruction located in an easement or right-of-way which is unavoidably damaged by the city or its contractor during emergency repair or normal operation of the system shall become the responsibility of the property owner.

(Ord. No. 96-06, § 1, 5-21-96)

### **§ 21-6. Prohibitions.**

(a) No person shall cross the private property of another to make a connection to the utility system unless said person is an authorized member of the utilities department or a contractor authorized by the city to perform work in an easement or right-of-way.

(b) No person shall be allowed to connect into any utility line owned by the city without the written consent of the city, and then the connection with such line shall be made only under the direction and supervision of the building official. Any property owner or plumber who makes any connection without such consent of the building official, upon conviction, shall be subject to the penalties hereinafter provided.

(Ord. No. 96-06, § 1, 5-21-96)

### **§ 21-7. Connection to old plumbing.**

Wherever it is desirable to connect old plumbing with the city's utility system, the owner or plumber contemplating doing such work shall notify the building official who will inspect the old plumbing and notify the owner or plumber what alterations will be necessary to place the old plumbing in an acceptable condition for such connection. Any owner or plumber who shall make any connection without the approval of the building official shall, upon conviction, be subject to the penalties hereinafter provided.

(Ord. No. 96-06, § 1, 5-21-96)

### **§ 21-8. Maintenance of plumbing system.**

The owner of the property shall be responsible for maintaining and keeping clean the pipes leading to and connecting from the plumbing system to the utility system.

(Ord. No. 96-06, § 1, 5-21-96)

### **§ 21-9. Penalties for violations.**

Any person violating any of the provisions of this chapter shall, upon conviction thereof, for each offense, be subject to penalties as provided in section 1-15 of this Code. Any failure or refusal by an owner to connect to the utility system after notification to do so, as hereinabove provided, or any failure or refusal to pay the charges or rates provided within this chapter shall be construed to be a violation of this chapter.

(Ord. No. 96-06, § 1, 5-21-96)

## **Article II. Sewer System**

### **Division 1. Generally**

#### **§ 21-26. Purpose and policy.**

(a) This article sets forth uniform requirements for direct and indirect contributors into the sewer system for the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR Part 403) as from time to time amended.

(b) The objectives of this article are to:

(1) Prevent the introduction of pollutants into the municipal sewer system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) Prevent the introduction of pollutants into the municipal sewer system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) Improve the opportunity to recycle and reclaim waste water and sludge from the system; and

(4) Provide for equitable distribution of the cost of the municipal sewer system.

(c) This article provides for the regulation of contributors to the municipal sewer system through the issuance of permits to certain nondomestic users and through enforcement activities, requires user reporting, assumes that the capacity of existing customers will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(d) This article shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the city sewer system. Except as otherwise provided herein, the director of utilities for the city shall administer, implement, and enforce the provisions of this article.

(Ord. No. 96-06, § 1, 5-21-96)

## **§ 21-27. Connection to sewer system.**

*Effective: Tuesday, November 01, 2022*

(a) *Availability defined.* The city sewer system shall be deemed available for the connection of the plumbing of any building as follows:

(1) *Estimated sewage flows of one thousand (1,000) gallons per day or less* for an existing parcel. Service is available if a city sewer line exists in a public easement or right-of-way which abuts the property, and gravity flow can be maintained from the building's drain to the sewer line. If gravity flow can be maintained from a drain located anywhere in the building, service shall be deemed available to the entire building. Where a building exists on a septic system prior to June 1, 1996, service is deemed to be available if the connection can be made without unreasonable cost to the property owner.

(2) *Estimated sewage flows exceeding one thousand (1,000) gallons per day* for an existing parcel. Service is available if a city force main or lift station exists in a public easement or right-of-way which abuts the property or is within one hundred (100) feet of the property. Where a building exists on a septic system prior to June 1, 1996, service is deemed to be available if the connection can be made without unreasonable cost to the property owner. For repair or modification of a pre-existing septic system, service is deemed to be available if any sewer line exists within five hundred (500) feet of the subject property which is accessible via easements or rights-of-way.

(3) *Areas zoned or used for industrial or manufacturing purposes or the equivalent* for an existing parcel. Service is available if a sewer line exists within one mile (five thousand two hundred eighty (5,280) feet) of the development which is accessible via easements or rights-of-way. Where a building exists on a septic system prior to June 1, 1996, service is deemed to be available if the connection can be made without unreasonable cost to the property owner.

(4) Newly developed areas zoned for commercial, residential, industrial, and manufacturing or the equivalent Service is deemed available if the parcel falls within the City limits of Lake Wales. All requirements provided in section 21-4 for construction of utility lines and other additions to the system shall pertain to the sewer system. Such sewer lines shall be installed in such a manner as to provide service to the entire property of the development, and the main lines shall be extended across the total property frontage to facilitate future extensions. These lines shall be installed during the initial placement of other required infrastructure items and prior to issuance of a certificate of occupancy or completion or use for the specific site or development. The cost of installing this system shall be borne by the developer.

(b) *Mandatory connection.* Where service is deemed to be available, the owner of each lot or parcel of land within the city's utility service area upon which any building exists that is used for residential, institutional, commercial or industrial purposes shall cause the plumbing of such building to be connected with the sewer system and use such facilities within sixty (60) days following notification to do so by the director of utilities. All such connections shall be made at the expense of the owner and shall be made in accordance with rules and regulations adopted by the city commission, which rules and regulations shall provide for reasonable fees and charges for service. If a property owner fails to connect to the sewer system within sixty (60) days after notification to do so, such owner shall be required to pay charges for service the same as if the building were connected to the system.

(c) *Construction, repair and alteration of septic systems.* It shall be unlawful for any person to construct, repair, alter, do or have work done to any septic system within the city's utility service area where connection to the city's sewer system is deemed to be available. No person shall construct, repair, alter or enlarge any septic system where sewer service is deemed to be unavailable unless such person receives approval by the director of utilities and holds a valid permit for such work issued by the department of health and rehabilitative services. The type, capacity, location, and layout of a septic system shall comply with all regulations of the department of health and rehabilitative services.

(d) *Purchase, installation and maintenance of pumping devices.* Where estimated sewage flow exceeds one thousand (1,000) gallons per day, elevation differences between the building in question and the sewer system shall not be construed to mean that sewer service is unavailable. In such instances where gravity flow cannot be maintained from the building's drain to the sewer line, the owner of the building shall be required to purchase, install and maintain, at the owner's expense, a device manufactured specifically for the pumping of sewage into the sewer system. The operation and maintenance of the pumping device shall be the sole responsibility of the owner or the owner's agent with a signed waiver of the city's liability prior to connection to the system. If, as a result of geographical location, it is deemed to be in the public interest to oversize the pumping device beyond minimum requirements, the city may exercise the option to operate and maintain the pumping device.

(e) *Application for connection, inspection fee and notice for inspection.* A connection with the sewer system shall be made only after an application has been filed with the building official. Such application shall state where the connection is to be made and such other information and details as shall be prescribed by the building official. Such inspection fee or other fees as may be required from time to time shall accompany the application. No work shall be done until the application shall have been approved by the building official and no connection with the sewer system shall be made without a permit having been issued by the building official, and all such connections shall first be inspected and approved before the same shall be covered by filling the excavation. Reasonable notice shall be given to the building official of the time such connection is ready to be inspected.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 21-11, § 1, 6-15-21; Ord. No. 22-47, § 1, 11-01-22)

## **Division 2. Sewer Use Regulations**

### **§ 21-49. Discharge restrictions to the sewer system.**

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

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

(1) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

(3) Any waters or waste having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewer system.

(4) Solid or viscous substances in quantities of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer system such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, cloth materials, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(c) The following described substances, materials, waters or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The director of utilities may set limitations lower than those established in the regulations below if in his opinion more severe limitations are necessary to meet the above objectives. In forming his opinion as to acceptability, the director of utilities will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sewer system shall not be violated without approval of the director of utilities and are as follows:

- (1) Wastewater having a temperature higher than one hundred fifty (150) degrees Fahrenheit (six hundred fifty (650 Celsius) or which will cause the temperature at the influent to a treatment plant to exceed one hundred four (104) degrees Fahrenheit (four hundred (400) Celsius).
- (2) Wastewater containing more than twenty-five (25) milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or products of mineral oil origin.
- (3) Wastewater containing more than one hundred (100) milligrams per liter of oils, fat or grease.
- (4) Any garbage that has not been properly shredded. 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 in the kitchen for the purpose of consumption on the premises or when served by caterers.
- (5) Any waste water having an excess of (limits in parts per million or milligrams per liter): silver 0.10, barium 2.0, aluminum 0.2, iron 0.3, phenol 0.2, arsenic 0.05, boron 1.0, manganese 0.05, lead 0.015, mercury 0.002, nickel 0.1, zinc 1.0, copper 0.1, cadmium 0.005, chromium 0.1, selenium 0.05, chlorides 250, nitrate 10(as N), nitrite 1(as N), sodium 160, thallium 0.002, asbestos 7 MFL and any substance or combination thereof that reduces the BOD by ten (10) percent will be considered as a toxic material. In addition, the limits for the following are: antimony 0.0, beryllium 0.0, bismuth 0.0 cobalt 0.0, cyanide 0.0, molybdenum 0.0, rhenium 0.0, tellurium 0.0, uranyl ion 0.0, strontium 0.0, herbicides 0.0, fungicides 0.0, formaldehyde 0.0 and pesticides 0.0.
- (6) Any waters or wastes containing odor-producing substances exceeding limits of 3 (threshold odor number) or exceeding limits which may be established by the director of utilities.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with the applicable state or federal regulations.
- (8) Quantities of flow, concentration, or both which constitute a slug.
- (9) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment process employed, or are amenable to treatment only to such degree that the wastewater plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to receiving waters and Class I reliability.

(10) Any water or wastes which, by interaction with other water or wastes in the public sewer system, releases obnoxious gases, forms solids which interfere with the collection system, or creates a condition deleterious to structures and treatment processes.

(11) Wastewater containing constituents in concentrations which are in excess of the concentration set for normal wastewater (two hundred fifty (250) mg/l BOD and TSS, thirty (30) mg/l TKN, fifteen (15) mg/l phosphorous).

(12) Wastewater having a pH in excess of 8.5.

(Ord. No. 96-06, § 1, 5-21-96)

**§ 21-50. Assessment of certain restrictions; requiring pretreatment of equalization facilities.**

(a) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated above and which in the judgment of the director of utilities, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters 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;
- (3) Require control over the quantities and rates of discharge;
- (4) Require surcharge payment to cover added cost of handling and treating the waters. Surcharges for over-strength BOD and TSS will be based on proportionate share costs.

(b) When considering the above alternatives, the director of utilities shall give consideration to the economic impact of each alternative on the discharge. If pretreatment or equalization of waste flows is required, the design and installation of plants and equipment shall be subject to the independent review of the city's engineers and approval of the director of utilities and shall meet the requirements of DEP Chapter 62-625.

(Ord. No. 96-06, § 1, 5-21-96)

**§ 21-51. Owner of pretreatment or equalization facilities.**

Where preliminary treatment of flow-equalization facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Ord. No. 96-06, § 1, 5-21-96)

**§ 21-52. Interceptors required.**

*Effective: Tuesday, March 17, 2020*

Grease interceptors are not required for every residence. However, one (1) or more grease interceptors are required where grease waste is produced in quantities that could otherwise cause line stoppage or hinder sewage disposal.

(1) *Fat, oil and grease (F.O.G.) interceptors required.* Users who operate restaurants, cafes, lunch counters, take-outs, cafeterias, bars, clubs, or hotel, hospital, factory or school kitchens or other establishments that serve or prepare food where F.O.G. may be introduced to the sewer system shall have a F.O.G. interceptor.

Take-out food establishments or other establishments that prepare food but do not cook in oil or grease and who serve food only in disposable containers may utilize alternative interceptors as approved by the public works director or his/her designee, provided their discharges will not violate any discharge prohibitions of this section. F.O.G. interceptors may also be required in non-cooking or cold dairy and frozen foodstuff establishments when they are deemed necessary by the public works director or his/her designee. Establishments that do not generate sufficient flow to warrant a grease interceptor shall be authorized, at the discretion of the public works director or his/her designee, to install an alternative grease prevention measure.

(2) *Oil and sand interceptors required.* Users who operate automatic and coin operated laundries, car washes, filling stations, commercial garages or similar businesses having any type of washing facilities or grease racks and any other users producing grit, sand, oils or other materials in levels prohibited by 62-302 Florida Administrative Code Rule, (grease and oils one hundred (100) mg/L) which may have the potential of causing partial or complete obstruction of the building sewer or other areas in the sewer system shall install interceptors approved by the public works director or his/her designee.

(3) *Location of interceptors.* Where a grease interceptor is required, kitchen wastewater shall first pass through the interceptor and then be discharged into the sewer system. All interceptors shall be located outside the building in such a manner that personnel from city utilities division can inspect the interceptors at any time.

(4) *Size of interceptors.* All interceptors shall be sized to ensure that the city's sewer system is protected from excessive F.O.G., sand and oil which may cause clogging or damage and that the user is capable of meeting all discharge requirements. F.O.G. interceptors shall be based on chapter 10 of the Florida Building Code, as amended. Sizing of grease interceptors shall be based on the equations as set forth below. The minimum volume of any grease interceptor shall be seven hundred and fifty (750) gallons and the maximum volume of a single grease interceptor is greater than one thousand two hundred and fifty (1,250) gallons, installation of grease receptors in series is required.

Restaurants:  $(S) \times (GS) \times (HR/12) \times (LP)$  = effective capacity of grease interceptor in gallons, where:

S = number of seats in the dining area.

GS = gallons of wastewater per seat (use twenty-five (25) gallons for ordinary restaurant, use ten (10) gallons for single service ordinance restaurants).

HR = number of hours' establishment is open.

LP = loading factor: use one and a quarter (1.25) for interstate highways, one (1.00) for freeways, one (1.00) for recreational areas, 0.80 for main highways, and 0.50 for other highways.

Other type establishments with commercial kitchens:  $(M) \times (GM) \times (LF)$  = effective capacity of grease interceptor in gallons, where:

M = meals prepared per day.

GM = gallons of water used per meal (use five (5) gallons).

LF = loading factor (use 1.00 with dishwashing and 0.50 without dishwashing).

(5) *Sampling port.* A sampling port shall be installed in an approved location to allow sampling by the utility and the user. The sample port shall be located between the interceptor and the discharge point to the sewer system.

(6) *Access manholes.* An access manhole must have a minimum diameter of twenty-four (24) inches and shall be provided over each chamber and sanitary tee. The access manholes shall extend at least to the finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall have readily removable covers to facilitate inspection and cleaning.

(7) *Plans required.* The following must be submitted to the city utilities division for review and approval prior to installation of an interceptor:

- a. Site plans showing the location of the interceptor, lines, clean out or manhole and sample port;
- b. Details of the interceptor, lines, clean out or manhole and sample port; and
- c. Formula and calculation used to determine the interceptor capacity.

*Note:* No non-grease-laden sources are allowed to be connected to sewer lines intended for grease, oil and sand separators.

(8) *Existing interceptors.* All interceptors currently in use or in existence at the time of this division will be considered sized sufficiently provided they meet all discharge requirements as stated in this division. All new interceptors or interceptors to replace or upgrade existing interceptors will be required to meet all criteria stated in this division. Existing interceptors that are currently undersized (less than seven hundred and fifty (750) gallons) may be required to pump out more frequently than ninety (90) days. These establishments will be required to comply within five (5) years of the effective date of this division.

(9) *Inspections.* The director of the city utilities department or his or her designee shall have the authority to inspect at a reasonable time (nominally within six (6) months unless circumstances dictate more frequent inspections are required), those food service, food processing, or other commercial establishments which may produce grease and which are connected to a city sewer system to ensure that said establishments have installed and are properly maintaining an adequate grease interceptor on all waste lines. When upon inspection the interceptor, the total depth of the floating grease layer plus the settle-able solids layer cannot exceed 25% of the total liquid depth of the interceptor or the establishment exceeds discharge compliance levels, the utilities director or his/her designee can require a grease pump out. Upon completion of an on-site inspection or analytical results of sampling indicate a violation of this subsection, the public works director or his/her designee may issue a "notice of violation" to the user or representative to document any discrepancies, noncompliance, special instructions or other guidance identified during the on-site inspection. Fines may be levied for failing to respond in a timely manner to a notice of violation or order for corrective action. Fines may be issued and not exceed five hundred dollars (\$500.00)/day/violation.

When upon inspection, the total depth of the floating grease layer plus the settleable solids layer cannot exceed 25% of the total liquid depth of the interceptor or the establishment exceeds discharge compliance levels, the director can require a grease pump out. Upon completion of an on-site inspection or analytical results of sampling indicate a violation of this subsection, the director may issue a "notice of violation" to the user or representative to document any discrepancies, noncompliance, special instructions or other guidance identified during the on-site inspection.

(10) *Maintenance.*

- a. All records pertaining to the maintenance of an interceptor shall be retained by the user for a period of not less than three (3) years and available to city utilities department upon request.
- b. Every F.O.G. interceptor shall be cleaned every ninety (90) days or sooner, if needed. An exemption may be granted to the ninety (90) day minimum requirement if the user can establish that such maintenance schedule is not necessary.

Additional Maintenance Requirements

- a. All users shall maintain any Fats, Oils, and Grease (FOG) recovery system so that the discharges there from are in compliance with all applicable laws, rules, and regulations.
- b. All non-automobile services facility FOG traps, and all other non-automobile service facility FOG recovery systems, shall have all floating material removed per a schedule determined by the Director or his/her representative. All non-automobile service facility FOG traps, and all other non-automobile service facility FOG recovery systems, shall be completely pumped out annually or when the contents thereof exceed the 25% Rule. All automobile service facility FOG traps, and all other automobile service facility FOG recovery systems shall be completely pumped out annual or when the contents thereof exceed the 25% Rule. Routine maintenance, annual maintenance and maintenance due to exceeding the 25% Rule shall include the complete recovery of all contents, including floating materials, wastewater and bottom sludge and solids. The frequency of maintenance may be increased to comply with the applicable daily maximum discharge limit(s), the manufacturer's recommendation of the 25% rule. The frequency shall be as often as necessary to prevent overflows of FOG from entering the Utility's wastewater collection system.
- c. The Pump-and-Return Method of decanting or discharging of removed waste or wastewater back into the FOG recovery system is prohibited.

Removal of floating material from a FOG trap less than or equal to 50 gallons may be performed by the owner of the FOG production facility, provided said floating material is properly disposed of in accordance with all applicable laws and the following procedure.

1. FOG device maintenance must be performed on a schedule determined by a number of factors. Contact the administrator of the FOG program for the required frequency.
2. Small generators with traps with "less than" <50 gallons may have floatables removed by the owner. However, 100% professional cleaning is required by a licensed special waste hauler annually at a minimum in those instances.
3. Manifest must be entered by "self-cleaners" and contractors on FOGBMP website within 5 days of service being performed.

4. Self-cleaning customers and licensed special waste haulers can register online through FOGBMP.com at no cost.

Any removal and hauling of FOG as a result of the complete pumping of a FOG trap and all other FOG recovery systems, shall be performed by a professional liquid hauler.

e. If any FOG recovery system discharge wastes fail to meet the applicable daily maximum limit(s) the Director or his/her representative is authorized to require that the user to repair, replace or upgrade its FOG recovery system, at the sole expense of the user.

f. No user may place an additive of any type in the FOG trap or FOG recovery system without the prior written approval of the Director.

(11) Maintenance Records. Each user, at each FOG producing facility, shall maintain an accurate and complete record of all cleaning(s) or maintenance of its FOG producing facility's FOG recovery system, and shall file electronic copies of same with the Utilities Department per current procedures. Submissions will be made either weekly, monthly, quarterly, semi-annually, or annually, based on the service schedule. The following records shall be kept on-site at the FOG producing facility for a minimum two (2) year period.

a. Haulers. The hauler shall provide the FOG producing facility manager, at the time of service, a manifest conforming to all Federal and State statutes and regulations, and provisions of this Code.

b. Manifest(s). The removal of FOG recovery system contents shall be recorded on a manifest that identifies the pumping, hauling and disposing of the wastes, and whether collected from an interior or an exterior FOG recovery system.

c. Manifest Information. Each manifest shall contain the following information as may be required by State Statute:

i. User information, including name, address, the volume pumper from each FOG recovery system, and date and time of the pumping;

ii. Hauler information, including company name, address, state license/permit number and disposal/receiving facility location information; and

iii. Receiving facility information, including the facility name and address, date and time of receiving, and EPD number.

iv. A certification that the FOG trap or FOG recovery system was in working order.

v. A certification that the maintenance requirements, as set forth in subsection (D)(3) above, are being complied with by the user relative to the FOG trap or FOG recovery system.

d. Manifest/Maintenance Log. The owner(s) of each FOG producing facility shall maintain, and keep available on the premises, a continuous log of manifests, FOG maintenance reports (and other similar record(s) regarding each cleaning or maintenance of the FOG recovery system for the previous twenty-four (24) months. The log shall be kept on the FOG producing facility premises in a location where the log is available for inspection or review by the Director, or his/her designated agent(s) or representative(s).

e. Manifest/Maintenance Log Filing. The liquid waste hauler shall file manifests to the Utility or designee after each service. FOG devices equal to or less than 50 gallon manifests may be submitted by the FOG producing facility's owner or representative. All submissions must be electronic and fees may be associated with each submission.

(12) Repairs. Any repair that is required in regard to a FOG trap or FOG recovery system shall be made by the user within thirty (30) days of the user receiving notice of the need for a repair from either the hauler, the Director, or the Utility's representative.

(13) *Alternative treatments.* The use of any free-enzyme, chemical, or other products designed to emulsify, liquefy or further render grease soluble for the purpose of clearing drains or circumventing the design of the interceptor is prohibited. All products claiming biological activity must be approved by the public works director or his/her designee. Approval for this or any other treatment does not relieve the user of properly maintaining the interceptor as to prevent discharge violations to city sewer system. Failure to comply with this section, shall be subject to the user being faced with the appropriate enforcement, fines, and procedures as set forth in this section. Additionally, if any person fails to comply with this section and said failure results in damage to the city's system, the city shall be entitled to recover the cost of repair of the system from said person and any fines or penalties assessed against the city as a result of such failure.

(14) *Sample collection.*

- a. Except as indicated in paragraph b., below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- b. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2013-07, § 1, 5-7-13; Ord. No. 2017-22, § 1, 12-19-17; Ord. No. 2020-09, § 1, 3-17-20;)

### **§ 21-53. Control facilities required.**

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

(Ord. No. 96-06, § 1, 5-21-96)

### **§ 21-54. Requirements of testing parameters.**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of *Standard Methods for Examination of Water and Wastewater*, published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewer system and to determine the existence of hazards to life, limb and property. The director of utilities or his designee shall determine whether a twenty-four (24) hour composite of all outfalls of the premises is appropriate or whether a grab sample should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls, whereas pH's are determined from periodic grab samples.

(Ord. No. 96-06, § 1, 5-21-96)

***§ 21-55. Special agreements or arrangements for treatment of unusual wastes. [Repealed]***

*Effective: Tuesday, November 01, 2022*

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2022-49, § 1, 11-01-22)

***§ 21-56. Inspection and sampling. [Repealed]***

*Effective: Tuesday, November 01, 2022*

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2022-49, § 1, 11-01-22)

***§ 21-57. Compliance with regulatory requirements. [Repealed]***

*Effective: Tuesday, November 01, 2022*

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 96-22, § 1, 11-19-96; Ord. No. 2022-49, § 1, 11-01-22)

**Division 3. Industrial Pretreatment**

***§ 21-57. General provisions.***

*Effective: Tuesday, November 01, 2022*

(a) Short title. This Division 3 of Article II, Chapter 21, of the Code of Ordinances of the city shall be known as the "Industrial Pretreatment Ordinance" and shall herein be referred to as the or this "ordinance".

(b) Purpose and policy. This ordinance sets forth uniform requirements for users of the wastewater collection and Publicly Owned Treatment Works (WWTP) for the city of Lake Wales, Florida and enables the city to comply with all applicable State and Federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.), and the General Pretreatment Regulations (62-625 F.A.C.). The objectives of this ordinance are:

- (1) To prevent the introduction of pollutants into the WWTP that will interfere with the operation of the WWTP, including interference with its use or disposal of domestic wastewater residuals;
- (2) To prevent the introduction of pollutants into the WWTP which will pass through the WWTP, inadequately treated, into receiving waters or otherwise be incompatible with the WWTP;
- (3) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- (4) To protect WWTP personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- (5) To improve the opportunity to recycle and reclaim wastewater and sludge from the WWTP;
- (6) To establish an equitable fee structure for users of the WWTP; and
- (7) To enable the city to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the WWTP is subject.

This ordinance shall apply to all industrial users of the WWTP. The ordinance authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(c) Administration. Except as otherwise provided herein, the city manager shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the city manager may be delegated by the city manager to other city personnel.

(d) Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:

- (1) Act or the Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
- (2) Approval authority. The appropriate regional administrator of the Department of Environmental Protection, or his/her designee.
- (3) Authorized or duly authorized representative of the user.
  - a. If the user is a corporation:
    - 1. The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
    - 2. The manager of one or more manufacturing, production, or operation facilities; provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- b. If the industrial user is a partnership, or sole proprietorship, a general partner or proprietor, respectively.
- c. If the industrial user is a federal, state or local governmental facility a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- d. The individuals described in paragraph a.—c. above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City of Lake Wales.

(4) Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° Centigrade expressed in terms of mass [pounds (lbs)] or concentration [milligrams per liter (mg/l)].

(5) Best management practices or BMPs means schedules or activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 21-58(a) and (b) [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. [Note: BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical pretreatment standards and effluent limits.]

(6) Categorical pretreatment standard or categorical standard. Any regulation containing pollutant discharge limits promulgated by the Department of Environmental Protection in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

(7) Categorical industrial user. An industrial user subject to a categorical pretreatment standard or categorical standard.

(8) Chemical oxygen demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic in water.

(9) City. The City of Lake Wales or the City Commission of Lake Wales, Florida.

(10) Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred (100) percent transmittance is equivalent to zero (0.0) optical density.

(11) Composite sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time (as a last resort).

(12) Control authority. The city.

(13) Daily maximum. The highest value of all the effluent samples collected during a calendar day.

(14) Daily maximum limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass, discharged over the course of the day. Where daily maximum limits are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(15) Department of Environmental Protection or DEP. The Department of Environmental Protection, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly

authorized official of said agency.

(16) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

(17) Existing source. Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

(18) Grab sample. A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

(19) Hazardous waste pharmaceutical is a pharmaceutical that is a solid waste, as defined in Title 40 of the Code of Federal Regulations (40 CFR) section 261.2, and exhibits one or more characteristics identified in 40 CFR part 261 subpart C or is listed in 40 CFR part 261 subpart D.

(20) Healthcare facility means any person that is lawfully authorized to:

- a. Provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body; or
- b. Distribute, sell, or dispense pharmaceuticals. This definition includes, but is not limited to, wholesale distributors, third-party logistics providers that serve as forward distributors, military medical logistics facilities, hospitals, psychiatric hospitals, ambulatory surgical centers, health clinics, physicians' offices, optical and dental providers, chiropractors, long-term care facilities, ambulance services, pharmacies, long-term care pharmacies, mail-order pharmacies, retailers of pharmaceuticals, veterinary clinics, and veterinary hospitals.

Healthcare facility does not include pharmaceutical manufacturers.

(21) Indirect discharge or discharge. The introduction of (nondomestic) pollutants into the WWTP from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

(22) Industrial user or user. A source of indirect discharge.

(23) Instantaneous maximum allowable discharge limit. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(24) Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources: 1) inhibits or disrupts the WWTP, its treatment processes or operations or its sludge processes, use or disposal; and 2) is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued there under (or more stringent state or local regulations): Section 405 of the Clean Water Act (CWA); the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

(25) Local limit. Specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

(26) Medical waste. Isolation wastes, infectious agents, human blood and blood by-products, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

(27) New source.

- a. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publications of proposed pretreatment standards under Section 307(c) of the CWA which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  1. The building, structure, facility or installation is constructed at a site at which no other source is located,
  2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source, or
  3. The production or wastewater generating process of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of section a.2. or 3., above but otherwise alters, replaces, or adds to existing process or production equipment; or
- c. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

1. Begun or caused to begin as part of a continuous onsite construction program.
  - i. Any placement, assembly, or installation of facilities or equipment, or
  - ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
2. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(28) Noncontact cooling water. Water used for cooling which does not come into direct contact with any raw material intermediate product, waste product, or finished product.

(29) Non-significant categorical user means an industrial user that discharges one hundred (100) gallons per-day (gpd) or less of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard, and:

- a. Has consistently complied with all applicable categorical pretreatment standards and requirements;
- b. Annually submits the certification statement required in subsection 62-625.600(17), F.A.C., together with any additional information necessary to support the certification statement; and
- c. Never discharges any untreated categorical process wastewater.

(30) Pass through. A discharge which exits the WWTP into waters of the state, in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

(31) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns; this definition including all Federal, State or local governmental entities.

(32) pH. A measure of the acidity or alkalinity of a substance, expressed in standard units.

(33) Pharmaceutical means any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system (e.g., electronic cigarette or vaping pen); or any liquid nicotine (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems (e.g., pre-filled cartridges or vials). This definition includes, but is not limited to, dietary supplements, as defined by the Federal Food, Drug and Cosmetic Act; prescription drugs, as defined by Title 21 of the Code of Federal Regulations part 203.3(y); over-the-counter drugs; homeopathic drugs; compounded drugs; investigational new drugs; pharmaceuticals remaining in non-empty containers; personal protective equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. Pharmaceutical does not include dental amalgam or sharps

(34) Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharge equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and any material that may affect the characteristics of the wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD,

Chemical Oxygen Demand (COD), toxicity, odor].

(35) Prescription Pharmaceuticals. A pharmaceutical that can only be obtained by means of a physician's prescription.

(36) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the WWTP. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(37) Pretreatment program. A program administered by a public utility that meets the criteria established in Rule 62-625.500, F.A.C.

(38) Pretreatment requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

(39) Pretreatment standards or standards. Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and local limits.

(40) Prohibited discharge standards or prohibited discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 21-58(a) of this ordinance.

(41) Publicly owned treatment works or WWTP. A "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the municipality. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

(42) Responsible corporate officer means:

a. A president, secretary, treasurer, or vice president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision making functions for the corporation; or

b. The manager of one (1) or more manufacturing, production, or operation facility, provided, the manager:

1. Is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations;

2. Is authorized to initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations;

3. Can ensure the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements;

4. Has been assigned or delegated the authority to sign documents in accordance with corporate procedures.

(43) Reverse distributor means any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that process prescription pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse distributor.

(44) Septic tank waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(45) Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

(46) Significant industrial user (SIU) means, except as provided in paragraphs c. and d., below, the following:

- a. Categorical users; and
- b. Any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWTP (excluding domestic wastewater, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the WWTP's operation or for violating any pretreatment standard or requirement.
- c. The control authority (except where the department is acting as the control authority) may determine that an industrial user subject to categorical pretreatment standards under Rule 62-625.410, F.A.C., including 40 CFR Chapter I, Subchapter N, Parts 405 through 471, is a non-significant categorical industrial user.
- d. Upon a finding that an industrial user meeting the criteria in paragraph b. above has no reasonable potential for adversely affecting the WWTP's operation or for violating any pretreatment standard or requirement, the control authority may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with paragraph 62-625.500(2)(e). F.A.C., determine that such industrial user is not a significant industrial user.

(47) Slug load. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 21-58(a) of this ordinance or any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

(48) Standard industrial classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

(49) Stormwater. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(50) Superintendent. The city manager or the person designated by the city to supervise the operation of the WWTP, and who is charged with certain duties and responsibilities by this ordinance or his/her duly authorized representative.

(51) Suspended solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

(52) Toxic pollutant. One (1) of one hundred twenty-six (126) pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. 1317) of the Act.

(53) Treatment plant effluent. Any discharge of pollutants from the WWTP into waters of the state.

(54) Wastewater. Liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the WWTP.

(55) Wastewater facility or WWTP. Any facility which discharges wastes into the waters of the State or which can reasonably be expected to be a source of water pollution and includes any or all of the following; the collection and transmission system, the wastewater treatment works, the reuse or disposal system, and the residuals management facility.

Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(e) Abbreviations. The following abbreviations shall have the designated meanings:

- BOD—Biochemical Oxygen Demand
- CFR—Code of Federal Regulations
- COD—Chemical Oxygen Demand
- DEP—Department of Environmental Protection
- gpd—Gallons per day
- l—Liter
- mg—Milligrams
- mg/l—Milligrams per liter
- NPDES—National Pollutant Discharge Elimination System
- O& M—Operation and maintenance
- WWTP—Wastewater Facility
- RCRA—Resource Conservation and Recovery Act
- SIC—Standard Industrial Classifications
- SIU—Significant Industrial User
- SWDA—Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
- TSS—Total suspended solids
- USC—United States Code

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(Ord. No. 2022-49, § 1, 11-01-22)

## **§ 21-58. General sewer use requirements.**

*Effective: Tuesday, November 01, 2022*

(a) Prohibited discharge standards. No industrial user shall introduce or cause to be introduced into the WWTP any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all industrial users of the WWTP whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirement.

(b) Specific prohibitions. No user shall introduce or cause to be introduced into the WWTP the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the municipal wastewater collection and WWTP, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F using test methods specified in 40 CFR 261.21;

(2) Any wastewater having a pH less than 5.0 or more than 10.5, or otherwise causing corrosive structural damage to the WWTP or equipment, or endangering city personnel. If wastewater is less than or equal to 2.0 or greater than or equal to 12.5 then wastewater is defined as hazardous waste in accordance with 40 CFR 261.22 and all discharges must cease and desist until the pH can be adjusted into non-hazardous waste range.

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the WWTP resulting in interference, but in no case solids greater than 0.5 inches or 1.27 centimeter in any dimension.

(4) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the WWTP; or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.

(5) Any wastewater having a temperature greater than 150° F (65° C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).

(6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the WWTP in a quantity that may cause acute worker health and safety problems.

(8) Any trucked or hauled pollutants, except at discharge points designated by the city in accordance with section 21-70(e).

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

(10) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the city's NPDES permit. Color (in combination with turbidity) shall not cause the treatment

plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten (10) percent from the seasonably established norm for aquatic life.

(11) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the Superintendent in compliance with applicable State or Federal regulations.

(12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Superintendent.

(13) Any sludges, screenings, or other residues from the pretreatment of industrial wastes.

(14) Any medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit.

(15) Any wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

(16) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the WWTP.

(17) Any hazardous waste pharmaceuticals from healthcare facilities and reverse distributors.

(18) Limits of any discharge of fats, oils or greases of animal or vegetable origin can be found in the "industrial wastewater limitations table" incorporated by reference and adopted herein on file in the city clerk's office.

Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the WWTP. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the WWTP.

(c) Federal categorical pretreatment standards. The national categorical pretreatment standards found at 40 CFR Part 403.6, as of July 1, 2009, and 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit in accordance with 40 CFR 403.6(e).

(d) State requirements. Any and all State pretreatment standards which may be adopted from time to time are hereby incorporated.

(e) Specific pollutant limitations. Pollutant limits shall be established to protect against pass through and interference. No person shall discharge wastewater containing pollutants in excess of said limits. Schedules containing specific pollutant limits, as established by ordinance shall be kept on file in the office of the city clerk. Any changes to said limits will be developed with public notice as required by 62-625.400-(3) F.A.C. Local limits will be applied at the point where the wastewater enters the publically owned treatment works.

(f) City's right of revision. The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the WWTP if deemed necessary to comply with the objectives presented in section 21-68(b) of this ordinance or the general and specific prohibitions in section 21-59(a) of this ordinance.

(g) Special agreement. The city reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the WWTP. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 62-625.820 F.A.C. They may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial user can prove that facts relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 62-625.700 F.A.C.

(h) Dilution. No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Superintendent may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 2022-49, § 1, 11-01-22)

## **§ 21-59. Pretreatment of wastewater.**

*Effective: Tuesday, November 01, 2022*

(a) Pretreatment facilities. Industrial users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in section 21-59(a) above within the time limitations specified by the EPA, the state, or the city whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city under the provisions of this ordinance.

(b) Additional pretreatment measures.

(1) Whenever deemed necessary, the Superintendent may require industrial users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewer, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the WWTP and determine the industrial user's compliance with the requirements of this ordinance.

(2) Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly as needed, by the owner at his expense.

(3) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(4) At no time shall two readings on an explosion hazard meter at the point of discharge into the WWTP, or at any point in the WWTP, be more than five (5) percent nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter.

(c) Accidental discharge/slug control plans. The Superintendent may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two (2) years. The Superintendent shall evaluate whether each significant industrial user needs such a plan. New significant industrial users must be evaluated within one (1) year of being designated as a significant industrial user. Any industrial user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges.

(2) Description of stored chemicals and containment areas.

(3) Procedures for immediately notifying the WWTP of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in section 21-59(a) of this ordinance.

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents, and/or measures and equipment for emergency response).

(d) Tenant responsibility. Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this ordinance.

(e) Hauled wastewater.

(1) Septic tank waste may be accepted into the WWTP at a designated receiving structure within the treatment plant area, and at such times as are established by the Superintendent, provided such wastes do not violate section 21-59 of this ordinance or any other requirements established or adopted by the city. Wastewater discharge permits for individual vehicles to use such facilities shall be issued by the Superintendent.

(2) The discharge of hauled industrial wastes as "industrial septage" requires prior approval and a wastewater discharge permit from the city. The Superintendent shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation. Waste haulers are subject to all other sections of this ordinance.

(Ord. No. 2022-49, § 1, 11-01-22)

## **§ 21-60. Wastewater discharge permit eligibility.**

*Effective: Tuesday, November 01, 2022*

(a) *Wastewater survey.* When required by the Superintendent all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Superintendent is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating services to the industrial user and shall be considered a violation of the ordinance.

(b) *Wastewater discharge permit requirement.*

(1) It shall be unlawful for any significant industrial user to discharge wastewater into the city's WWTP without first obtaining a wastewater discharge permit from the Superintendent. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in sections 21-67 through 21-69. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State and local law.

(2) The Superintendent may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

(c) *Wastewater discharge permitting existing connections.* Any significant industrial user which discharges industrial waste into the WWTP prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall within ninety (90) days after said date, apply to the city for a wastewater discharge permit in accordance with section 21-61(f) below and shall not cause or allow discharges to the WWTP to continue after one hundred eighty (180) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Superintendent.

(d) *Wastewater discharge permitting new connection.* Any significant industrial user proposing to begin or recommence discharging industrial wastes into the WWTP must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin.

(e) *Wastewater discharge permitting extra-jurisdictional industrial users.*

(1) Any existing significant industrial user located beyond the city limits shall submit a wastewater discharge permit application, in accordance with section 21-61(f) below, within ninety (90) days of the effective date of this ordinance. New significant industrial users located beyond the city limits shall submit such applications to the Superintendent ninety (90) days prior to any proposed discharge into the WWTP.

(2) Alternately, the Superintendent may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user.

(f) *Wastewater discharge permit.* In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit must submit the information required by section 21-63(a)(1) of this ordinance. The city commission shall approve a form to be used as a permit application. In addition, the following information may be required:

(1) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the WWTP.

(2) Number and type of employees, hours of operation, and proposed or actual hours of operation of the pretreatment system.

(3) Each product produced by type, amount, process or processes, and rate of production.

(4) Type and amount of raw materials processed (average and maximum per day).

(5) The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by location, and elevation, and all points of discharge.

(6) Time and duration of the discharge.

(7) Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.

(g) *Application signatories and certification.* All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(h) *Wastewater discharge permit decisions.* The Superintendent will evaluate the data furnished by the industrial user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. If no determination is made within this time period, the application will be deemed denied. The Superintendent may deny any application for a wastewater discharge permit.

(Ord. No. 2022-49, § 1, 11-01-22)

## **§ 21-61. Wastewater discharge permit issuance process.**

*Effective: Tuesday, November 01, 2022*

(a) *Wastewater discharge permit duration.* Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period of less than five (5) years, at the discretion of the Superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(b) *Wastewater discharge permit contents.* Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the WWTP.

(1) Wastewater discharge permits must contain the following conditions:

- a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years.
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the city, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
- c. Effluent limits, including best management practices, based on applicable pretreatment standards;
- d. Self monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
- e. Statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(2) Wastewater discharge permits may contain, but need not be limited to, the following:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
- b. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
- c. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
- d. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.
- e. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the WWTP.
- f. The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the WWTP.
- g. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
- h. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit.
- i. Other conditions as deemed appropriate by the Superintendent to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

(c) Wastewater discharge permit appeals. Any person including the industrial user, may petition the city manager to reconsider the terms of a wastewater discharge permit within ten (10) days of its issuance.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (4) If the Superintendent fails to act within ten (10) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative action for purposes of judicial review.
- (5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing an action with the Circuit Court in and for Polk County, Florida within thirty (30) days from the date of said decision.

(d) Wastewater discharge permit modification. The Superintendent may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- (1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.
- (2) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.
- (3) A change in the WWTP that requires either temporary or permanent reduction or elimination of the authorized discharge.
- (4) Information indicating that the permitted discharge poses a threat to the city's WWTP, city personnel, or the receiving waters.
- (5) Violation of any terms or conditions of the wastewater discharge permit.
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 62-625.700 F.A.C.
- (8) To correct typographical or other errors in the wastewater discharge permit.
- (9) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

This filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

(e) Wastewater discharge permit transfer. Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least ninety (90) days advance notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner and/or operator which:

- (1) States that the new owners and/or operator has no immediate intent to change the facility's operations and processes.
- (2) Identifies the specific date on which the transfer is to occur.
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit. Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer.

(f) Wastewater discharge permit revocation. Wastewater discharge permits may be revoked for the following reasons:

- (1) Failure to notify the city of significant changes to the wastewater prior to the changed discharge.
- (2) Failure to provide prior notification to the city of changed condition pursuant to section 21-63(e).
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- (4) Falsifying self-monitoring reports.
- (5) Tampering with monitoring reports.
- (6) Refusing to allow the city timely access to the facility premises and records.
- (7) Failure to meet effluent limitations.
- (8) Failure to pay fines.
- (9) Failure to pay sewer charges.
- (10) Failure to meet compliance schedules.
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application.
- (12) Failure to provide advance notice of the transfer of a permitted facility.
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.

Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

(g) Wastewater discharge permit reissuance. A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance with section 21-61(f) a minimum of ninety (90) days prior to the expiration of the industrial user's existing wastewater discharge permit.

(h) Municipal wastewater discharge permits. In the event another municipality contributes all or a portion of its wastewater to the WWTP, the WWTP may require such municipality to apply for and obtain a municipal wastewater discharge permit.

- (1) A municipal wastewater discharge permit application shall include:
  - a. A description of the quality and volume of the wastewater at the point(s) where it enters the WWTP.
  - b. Any inventory of all industrial users discharging to the municipality.
  - c. Such other information as may be required by the Superintendent.
- (2) A municipal wastewater discharge permit shall contain the following conditions:

- a. A requirement for the municipal user to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in section 21-59(d).
- b. A requirement for the municipal user to submit a revised industrial user inventory on at least an annual basis.
- c. A requirement for the municipal user to a) conduct pretreatment implementation activities including industrial user permit issuance, inspection and sampling, and enforcement; or b) authorize the WWTP to take or conduct such activities on its behalf.
- d. A requirement for the municipal user to provide the city with access to all information that the municipal user obtains as part of its pretreatment activities.
- e. Limits on the nature, quality, and volume of the municipal user's wastewater at the point where it discharges to the WWTP.
- f. Requirements for monitoring the municipal user's discharge.

(3) Violation of the terms and conditions of the municipal user's wastewater discharge permit subjects the municipal user to the sanctions set out in section 21-67 through 21-69.

(Ord. No. 2022-49, § 1, 11-01-22)

## **§ 21-62. Reporting requirements.**

*Effective: Tuesday, November 01, 2022*

**(a) Baseline monitoring reports.**

- (1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 62-625.410(2)(d) F.A.C., whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the WWTP, shall be required to submit to the city a report which contains the information listed in paragraph (2) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the city a report which contains the information listed in paragraph (2) below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.
- (2) The industrial user shall submit the information required by this section including:

- a. *Identifying information.* The name and address of the facility including the name and operator and owners.
- b. *Wastewater discharge permit.* A list of any environmental control wastewater discharge permits held by or for the facility.
- c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the WWTP from the regulated process.
- d. *Flow management.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the WWTP from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 62-625.410(6) F.A.C.
- e. *Measurement of pollutants.*
  - 1. Identify the categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
  - 2. Submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the city) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 21-63(l).
  - 3. Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported.
  - 4. The sample shall be representative of the daily operations and shall be analyzed in accordance with the procedures set out in section 21-63(l) of this ordinance. Where the standard requires compliance with a bmp or pollution prevention alternative, the user shall submit documentation as required by the Superintendent or applicable standards to determine compliance with the standard.
  - 5. Sampling must be performed in accordance with procedures set out in section 21-63(k).
- f. *Certification.* A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- g. *Compliance schedule.* If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.
- h. *Signed and certified reports.* All baseline monitoring reports must be signed and certified in accordance with section 21-61(g).

(b) *Compliance schedule progress report.* The following conditions shall apply to the schedule required by 21-63(a)(2)g. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months. The industrial user shall submit a progress report to the Superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, (and, if appropriate) the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

(c) *Report on compliance with categorical pretreatment standard deadline.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWTP, any industrial user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in section 21-63(a)(2)d.—f. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 62-625.410(4) F.A.C., this report shall contain a reasonable measure of the industrial user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports must be signed in accordance with section 21-61(g).

(d) *Periodic compliance reports.*

(1) Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the Superintendent but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management plan (BMP) or pollution prevention alternative, the user must submit documentation required by the Superintendent or the pretreatment standard necessary to determine the compliance status of the user. All periodic compliance reports must be signed and certified in accordance with section 21-61(g).

(2) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

(3) If an industrial user subject to the reporting requirements in and of this section monitors any pollutant more frequently than required by the WWTP, using the procedures prescribed in section 21-63(m) of this ordinance the results of this monitoring shall be included in the report.

(e) *Report of changed conditions.* Each industrial user is required to notify the Superintendent of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least ninety (90) days before the change.

- (1) The Superintendent may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 21-61(f).
- (2) The Superintendent may issue a wastewater discharge permit under section 21-61(i) or modify an existing wastewater discharge permit under section 21-62(d).
- (3) No industrial user shall implement the planned changed conditions(s) until and unless the Superintendent has responded to the industrial user's notice.
- (4) For purposes of this requirement flow increases of ten (10) percent or greater, and the discharge of any previously unreported pollutants shall be deemed significant.

(f) *Reports of potential problems.*

- (1) In the case of any discharge including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load which may cause potential problems for the WWTP (including a violation of the prohibited discharge standards in section 21-59(a) of this ordinance), it is the responsibility of the industrial user to immediately telephone and notify the city of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.
- (2) Within five (5) days following such discharge, the industrial user shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the WWTP, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance.
- (3) Failure to notify the city of potential problem discharges shall be deemed a separate violation of this ordinance.
- (4) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (1) above. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.

(g) *Reports from nonsignificant industrial users.* All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as the Superintendent may require.

(h) *Signatory requirements for industrial user reports.* All required reports shall have a signed certification statement as required in section 21-61(g). Reports shall be signed as follows:

- (1) By a responsible corporate officer, if the industry is a corporation.
- (2) By a general partner or proprietor, if the industry is a partnership or sole proprietorship respectively.
- (3) By a duly authorized representative of the individual designated in paragraph (1) or (2) above.
- (4) The authorization is made in writing by the individual described in paragraph (1) or (2) above.

(i) *Notice of violation/repeat sampling and reporting.* If sampling performed by an industrial user indicates a violation, the industrial user must notify the city within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city within thirty (30) days after becoming aware of the violation. Where the city has performed the sampling and analysis in lieu of the industrial user, the city must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Re-sampling is not required if:

- (1) The city performs sampling at the industrial user at a frequency of at least once per month; or
- (2) The city performs sampling at the industrial user between the time when the initial sampling was conducted and the time when the industrial user or the city receives the results of the sampling.

(j) *Notification of the discharge of hazardous waste.*

(1) Any industrial user who commences the discharge of hazardous waste shall notify the WWTP, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the WWTP of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261 Subpart C. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261 Subpart C, the EPA hazardous waste number, and the type of discharge {continuous batch, or other}. If the industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to the WWTP, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharge during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under section 21-63(e) above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of sections 21-63(a), 21-63(c) and 21-63(d), above.

(2) Dischargers are exempt from the requirements of paragraph (1) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in Chapter 62-730, F.A.C. Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in Chapter 62-730, F.A.C. requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new department regulations identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the industrial user must notify the city and the department's hazardous waste and pretreatment authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(4) In the case of any notification made under this subsection, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(k) *Annual certification by non-significant categorical industrial users.* An industrial user determined to be a non-significant categorical industrial user in accordance with section 21-58(d)(21), must annually submit the following certification statement, signed in accordance with the signatory requirements in (h) above. The certification must accompany any alternative report required by the city: "Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR [specify applicable national pretreatment standard part(s)]. I certify that, to the best of my knowledge and belief that during the period from [month, day, year] to [month, day, year]:

- (1) The facility described as [industrial user name] met the definition of a non-significant categorical industrial user as described in section 21-58(d)(21).
- (2) The facility complied with all applicable pretreatment standards and requirements during this reporting period; and
- (3) The facility never discharged more than one hundred (100) gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information: [documentation of basis to continue exemption]."

(1) *Analytical requirements.* All pollutant analysis, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Superintendent or other parties approved by EPA.

(m) *Sample collection.*

- (1) Except as indicated in section (2) below, the industrial user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is unfeasible, the Superintendent may authorize the use of time proportional sampling or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits. For industrial users where historical sampling data do not exist, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds. All sampling activities shall be performed according to the procedures specified in "The Department of Environmental Protection Standard Operating Procedures for Field Activities," DEP-SOP-001/01, March 31, 2008.
- (2) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(n) *Determination of noncompliance.* The Superintendent may use a grab sample(s) to determine noncompliance with pretreatment standards.

(o) *Recordkeeping.* Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this ordinance. These records shall remain available for the term of the permit plus a period of three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this ordinance, or where the industrial user has been specifically notified of a longer retention period by the Superintendent.

(Ord. No. 2022-49, § 1, 11-01-22)

## § 21-63. Compliance monitoring.

*Effective: Tuesday, November 01, 2022*

(a) *Inspection and sampling.* The city shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the Superintendent, or his representatives, ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (1) Where an industrial user has security measures in force which require the proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city, state, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.
- (2) The city, state, and EPA shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (3) The city may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated [periodically] to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing access shall be borne by the industrial user.
- (5) Unreasonable delays in allowing city personnel access to the industrial user's premises shall be a violation of this ordinance.

(b) *Inspection warrants.* If the Superintendent has been refused access to a building, structure or property or any part thereof, and if the Superintendent has demonstrated probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect as a part of a routine inspection program of the city designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city may make application through the city attorney, to the Circuit Court in and for Polk County, Florida, for the issuance of an inspection warrant requesting the inspection of the specific location. The warrant, if issued by the circuit judge, shall specify what, if anything may be searched on the property described. Such warrant shall be served at reasonable hours by the Superintendent in the company of a uniform police officer of the city. In the event of an emergency affecting public health and safety, inspection shall be made without the issuance of a warrant.

(Ord. No. 2022-49, § 1, 11-01-22)

## **§ 21-64. Confidential information.**

*Effective: Tuesday, November 01, 2022*

Information and date on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from city inspection and sampling activities, shall be available to the public without restriction unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. No. 2022-49, § 1, 11-01-22)

### **§ 21-65. Publication of industrial users in significant noncompliance.**

*Effective: Tuesday, November 01, 2022*

The Superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWTP, a list of users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (c), (d) or (h) of this section) and shall mean:

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of wastewater measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a pretreatment standard or requirement, including instantaneous maximum allowable discharge limits as defined in section 21-58(d);
- (b) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameters during month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous maximum allowable discharge limits as defined in section 21-58(d) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH;
- (c) Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous maximum allowable discharge limit, or narrative standard) that the Superintendent believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWTP personnel or the general public);
- (d) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge;
- (e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance;
- (g) Failure to accurately report noncompliance; or
- (h) Any other violation(s) which may include a violation of best management practices which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 2022-49, § 1, 11-01-22)

## **§ 21-66. Administrative enforcement remedies.**

*Effective: Tuesday, November 01, 2022*

(a) *Notification of violation.* Whenever the Superintendent finds that any user has violated or is violating this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirement, the Superintendent or his agent may serve upon said user a written notice of violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) *Consent orders.* The Superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as the administrative orders issued pursuant to sections 21-67(d) and 21-67(e) below and shall be judicially enforceable.

(c) *Show cause hearing.* The Superintendent may order any user which causes or contributes to violation(s) of this ordinance, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirement, to appear before the Superintendent and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

(d) *Compliance orders.* When the Superintendent finds that a user has violated or continues to violate the ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within a reasonable period of time, depending on the severity of the violation. If the user does not come into compliance within the time ordered, the utility service may be discontinued until such time as the user is in compliance. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

(e) *Cease and desist orders.* When the Superintendent finds that a user is violating this ordinance, the user's wastewater discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements and standards.
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

(f) *Emergency suspensions.* The Superintendent may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Superintendent may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the WWTP, or which presents or may present an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WWTP, its receiving stream, or endangerment to any individuals. The Superintendent shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings set forth in section 21-67(g) are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent, prior to the date of any show cause or termination hearing under sections 21-67(c) and 21-67(g).

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(g) *Termination of discharge.* In addition to those provisions in section 21-62(f) of this ordinance, any user that violates the following conditions of this ordinance, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination.

- (1) Violation of wastewater discharge permit conditions.
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge.
- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- (5) Violation of the pretreatment standards in section 21-59 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 21-67(c) of this ordinance why the proposed action should not be taken.

(Ord. No. 2022-49, § 1, 11-01-22)

## § 21-67. Judicial enforcement remedies.

Effective: Tuesday, November 01, 2022

(a) *Injunctive relief.* Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, the Superintendent may petition the Circuit Court in and for Polk County, Florida, through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

(b) *Civil penalties.*

(1) The city shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. The city shall have the authority to seek or assess civil penalties in at least the amount of one thousand dollars (\$1,000.00) a day for each violation by industrial users of pretreatment standards and requirements. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violations.

(2) The city may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economical benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(4) Filing a suit for a civil penalty shall not be a prerequisite for taking any other action against a user.

(c) *Criminal prosecution.*

(1) Any user that willfully or negligently violates any provision of this ordinance, any orders or wastewater discharge permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of at least one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than sixty (60) days or both.

(2) Any user that willfully or negligently introduces any substance into the WWTP which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least one thousand dollars (\$1,000.00) per violation per day and/or imprisonment for not more than sixty (60) days. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(3) Any user that knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than sixty (60) days or both.

(d) *Remedies nonexclusive.* The provisions in sections 21-66 through 21-68 are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city reserves the right to take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

(Ord. No. 2022-49, § 1, 11-01-22)

## **§ 21-68. Affirmative defenses to discharge violations.**

*Effective: Tuesday, November 01, 2022*

(a) **Upset.**

(1) For the purpose of this section "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3) are met.

(3) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- a. An upset occurred and the industrial user can identify the cause(s) or the upset.
- b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.
- c. The industrial user has submitted the following information to the WWTP and treatment plant operator within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
  - (i) A description of the indirect discharge and cause of noncompliance.
  - (ii) The period of noncompliance, including exact dates and items or, if not corrected, the anticipated time the noncompliance is expected to continue.
  - (iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

- (4) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
- (5) Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (6) The industrial user shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(b) General/specific prohibitions. An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in section 21-59 (a) of this ordinance if it can prove that it does not know or have reason to know that its discharge, along or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the pass through or interference, or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge uses or disposal requirements.

(c) Bypass.

(1) For the purpose of this section.

(i) "Bypass" means the intentional diversion of waste streams from any portion of an industrial user's treatment facility.

(ii) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance or assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this [sub]section.

(3) Bypass notifications.

(i) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent, at least ten (10) days before the date of the bypass if possible.

(ii) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the WWTP within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The WWTP Superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(4) Bypass is prohibited, and the WWTP may take action against an industrial user for bypass, unless;

- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
- b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
- c. The industrial user submitted notices as required under paragraph (2) of this [sub]section.

1. The Superintendent may approve and anticipate bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in paragraph (4)a.—c. of this [sub]section.

(Ord. No. 2022-49, § 1, 11-01-22)

### **§ 21-69. Charges, fees and billing procedure.**

*Effective: Tuesday, November 01, 2022*

(a) The city shall establish a uniform schedule of charges and fees to provide for the reimbursement of costs to the city for the treatment of industrial wastewater. This schedule of charges and fees shall be enacted and modified by ordinance adopted by the city commissioners of the City of Winter Haven, Florida. This schedule shall not be codified, but shall be on file in the city clerk's office.

(b) Where the premises are served by city utilities, any fees and charges pursuant to this ordinance shall be added to and made a part of a consolidated utility billing.

(c) Where city utilities are not used, said fees and charges shall be charged to and collected from the user. Bills rendered pursuant to this provision shall be considered delinquent if not paid by the date specified on this bill. Said delinquency shall be considered as a violation of the provisions of this ordinance and the wastewater permit and may be considered for enforcement proceedings pursuant to the applicable enforcement provisions of this ordinance. For purposes of such delinquencies, the city may avail itself of the remedies set forth in Part I of Chapter 159, Florida Statutes, the "Revenue Bond Act of 2153" (the "Act"), which provides that the city has a lien on all lands or premises served by any water and/or sewer system for service charges for such facilities until paid, which liens are prior to all other liens on such lands or premises except the lien of state, county, and municipal taxes; and such lien(s) are on a parity with the lien of state, county and municipal taxes. Pursuant to the Act and the city's home rule power(s), the city imposes liens on all properties served by the utility system for unpaid utility service fees and/or user charges, the enforcement of such service charges (including the assessment of the city's legal costs in enforcing any such liens).

(d) The provisions set forth in this section 21-70 are not exclusive remedies. The city reserves the right to take any, all, or a combination of legal and/or equitable action(s) against a noncompliant and/or delinquent user which may include, but shall not be limited to, the city's right and ability to discontinue utility service(s) for nonpayment and requiring all charges, fees (including attorneys' fees and costs), interest and penalties be paid-in-full prior to restoring such utility service(s); and the city's right and ability to foreclose any lien(s) created by and/or arising out of the Act in the manner provided by the Laws of Florida for the foreclosure of mortgages on real property.

(Ord. No. 2022-49, § 1, 11-01-22)

### **§ 21-70. Requirements for dental facilities that remove or replace amalgam fillings.**

*Effective: Tuesday, November 01, 2022*

(a) Definitions. For the purpose of this section the following words and phrases shall be as defined herein.

(1) Amalgam separator is a device that employs filtration, settlement, centrifugation, or ion exchange to remove amalgam and its metal constituents from a dental office vacuum system before it discharges to the sewer.

(2) Amalgam waste means and includes non-contact amalgam (amalgam scrap that has not been in contact with the patient); contact amalgam (including, but not limited to, extracted teeth containing amalgam); amalgam sludge captured by chairside straps, vacuum pump filters, screens, and other amalgam trapping devices; used amalgam capsules; and leaking or unusable amalgam capsules.

(3) ANSI/ADA Standard No. 108 is the American National Standards Institute and American Dentistry association standard for amalgam separators.

(4) Existing source is any facility subject to this section whose first discharge to the sewer collection system occurred on or before July 14, 2017.

(5) ISO 11143 is the International Organization for Standardization's standard for amalgam separators.

(6) New source is any facility subject to this section whose first discharge to the sewer system occurs after July 14, 2017 and must comply immediately upon commencement of discharge.

(b) All owners and operators of dental facilities that remove or place amalgam fillings shall comply with the following reporting and waste management practices:

(1) For existing sources, the One-Time Compliance Report is due no later than ninety (90) days after receipt of notification from the city to comply with the requirements of this Ordinance or no later than ninety (90) days after transfer of ownership.

(2) For new sources, the One-Time Compliance Report is due within ninety (90) days of the start of discharge to the sewer collection system.

(3) No person shall rinse chairside traps, vacuum screens, or amalgam separators equipment in a sink or other connection to the sanitary sewer.

(4) Owners and operators of dental facilities shall ensure that all staff members who handle amalgam waste are trained in the proper handling, management and disposal of mercury-containing material and fixer-containing solutions and shall maintain training records that shall be available for inspection by the superintendent or designee during normal business hours.

(5) Amalgam waste shall be stored and managed in accordance with the instructions of the recycler or hauler of such materials.

(6) Bleach and other chlorine-containing disinfectants shall not be used to disinfect the vacuum line system.

(7) The use of bulk mercury is prohibited. Only pre-capsulated dental amalgam is permitted.

(c) All owners and operators of dental vacuum suction systems, except as set forth in subsections (d) and (e) of this section, shall comply with the following:

(1) An ISO 11143 or ANSI/ADA Standard No. 108 certified amalgam separator or equivalent device shall be installed for each dental vacuum suction system on or before July 14, 2020; provided, however, that all dental facilities that are newly constructed on and after the effective date of this ordinance shall include an installed ISO 11143 or ANSI/ADA Standard No. 108 certified amalgam separator device. The installed device must be ISO 11143 or ANSI/ADA Standard No. 108 certified as capable of removing a minimum of ninety-five (95) percent of amalgam. The amalgam separator system shall be certified at flow rates comparable to the flow rate of the actual vacuum suction system operation. Neither the separator device nor the related plumbing shall include an automatic flow bypass. For facilities that require an amalgam separator that exceeds the practical capacity of ISO 11143 test methodology, a non-certified separator will be accepted provided that smaller units from the same manufacturer and the same technology are ISO-certified.

(2) Proof of certification and installation records shall be submitted to the superintendent within thirty (30) days of installation.

(3) Amalgam separators shall be maintained in accordance with manufacturer's recommendations. Installation, certification, and maintenance records shall be available for immediate inspection upon request therefor by the superintendent or designee during normal business hours. Records shall be maintained for a minimum of three (3) years.

(d) Facilities with vacuum suction systems that meet all the following conditions may apply to the superintendent for an exemption to the requirements of subsection (c) of this section:

(1) The system is a dry vacuum pump system with an air-water separator.

(2) The sedimentation tank is non-bottom draining, with the drain above the anticipated maximum level of accumulated sludge.

(3) Evidence of regular pump outs by a licensed hauler (a minimum of one (1) year, or more often if either directed by the manufacturer or necessary to keep solids from exiting through the drain) is maintained and open to inspection by the superintendent during normal business hours.

(4) The system has no direct discharge pipe to the sewer on the bottom of the sedimentation tank.

An owner or operator whose facility meets conditions (1) through (4) may apply for this exemption by written letter to the superintendent. The superintendent or designee will review the system, and if the exemption is approved, shall provide a written letter of exemption.

An exemption obtained pursuant to this subsection (d) shall expire upon installation of a new vacuum system. Upon expiration of the exemption, the facility shall comply with subsection (c) of this section before commencing further operation.

(e) Dental dischargers that exclusively practice one or more of the following specialties are not subject to the requirements of this section: (1) Orthodontics; (2) Periodontics; (3) Oral and maxillofacial surgery; (4) Radiology; (5) Oral pathology or oral medicine; (6) Endodontistry and prosthodontistry.

(f) Dental practices that do not place dental amalgam, and do not remove amalgam except in limited emergency or unplanned, unanticipated circumstances, are exempt from the requirements of this part, provided the dental practice:

(1) Submits the following statement to the city, signed by a responsible corporate officer, general partner, proprietor, or a duly authorized representative by the applicable compliance identified in section 21-71(b):

"This facility is a dental discharger subject to this rule and does not place or remove dental amalgam except in limited emergency or unplanned, unanticipated circumstances. I am a responsible corporate officer, a general partner or proprietor (if the facility is a partnership or sole proprietorship), or a duly authorized representative in accordance with the requirements of § 403.12 (l) of the above named dental facility, and certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.";

(2) Removes dental amalgam for limited emergency or unplanned, unanticipated circumstances, less than ten (10) times per year and no more than 1% of dental procedures; and

(3) The dental practice notifies the (city/county/utility/authority) of any changes affecting the applicability of this certification.

(g) Disposal of hauled wastewater from dental facilities to the sanitary sewer must be in accordance with section 21-60(e) and section 21-59, and may be subject to industrial pretreatment requirements.

(Ord. No. 2022-49, § 1, 11-01-22)

## **Article III. Water System**

### **Division 1. Generally**

#### **§ 21-71. Connection to water system.**

*Effective: Tuesday, November 01, 2022*

(a) *Availability defined.* The city water system shall be deemed available for the connection of the plumbing of any building as follows:

(1) *Estimated consumption of one thousand (1,000) gallons per day or less for an existing parcel.* Service is available if a city water line exists in a public easement or right-of-way which abuts the property. Where a building exists prior to June 1, 1996, service is deemed to be available if the connection can be made without unreasonable cost to the property owner and contingent upon the city's ability to provide the required level of service.

(2) *Estimated consumption exceeding one thousand (1,000) gallons per day for an existing parcel.* Service is available if a city water line exists in a public easement or right-of-way which abuts the property or is within one hundred (100) feet of the property. Where a building exists prior to June 1, 1996, service is deemed to be available if the connection can be made without unreasonable cost to the property owner and contingent upon the city's ability to provide the required level of service.

(3) *Areas zoned or used for industrial or manufacturing purposes or the equivalent for an existing parcel.* Service is available if a water line exists within one mile (five thousand two hundred eighty (5,280) feet) of the development which is accessible via easements or rights-of-way.

(4) *Newly developed areas zoned for commercial, residential, industrial, and manufacturing or the equivalent.* Service is deemed available if the parcel falls within the City limits of Lake Wales. All requirements provided in section 21-4 for construction of utility lines and other additions to the system shall pertain to the water system. Such water lines shall be installed in such a manner as to provide service to the entire property of the development, and the main lines shall be extended across the total property frontage to facilitate future extensions. These lines shall be installed during the initial placement of other required infrastructure items and prior to issuance of a certificate of occupancy or completion or use for the specific site or development. The cost of installing this system shall be borne by the developer.

(b) *Mandatory connection.* Where service is deemed to be available, the owner of every lot or parcel of land in the city's utility service area upon which any building exists that is used for residential, institutional, commercial or industrial purposes shall cause the plumbing of such building to be connected with the water system and use such facilities within sixty (60) days following notification to do so by the director of utilities. All such connection shall be made at the expense of the owner and shall be made in accordance with the rules and regulations adopted by the city commission, which rules and regulations shall provide for reasonable fees and charges for service. This section shall not be construed to entitle any person to cross the private property of another to make such water connection. If a property owner fails to connect to the water system within sixty (60) days after notification to do so, such owner shall be required to pay charges for service the same as if the building were connected to the system.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 21-11, § 1, 6-15-21; Ord. No. 22-47, § 1, 11-01-22)

## **§ 21-72. Irrigation meters.**

Separate meters shall be permitted for irrigation purposes subject to the following conditions:

(1) It shall be the customer's responsibility to make the physical connection between the irrigation meter and irrigation system, whether it is an existing system or newly constructed system.

(2) The irrigation meter shall be considered in service upon the date of its installation.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2011-15, § 1, 9-7-11)

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### **EDITOR'S NOTE**

Ord. No. 2011-15, § 1, adopted Sept. 7, 2011, repealed § 21-72 and renumbered § 21-73 as 21-72 as set out herein. The former § 21-72 pertained to cross-connection/backflow prevention and derived from Ord. No. 96-06, § 1, adopted May 21, 1996. The historical notation has been retained with the amended provisions for reference purposes.

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**EDITOR'S NOTE**


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Ord. No. 2011-15, § 1, adopted Sept. 7, 2011, repealed § 21-72 and renumbered § 21-73 as 21-72 as set out herein. The former § 21-72 pertained to cross-connection/backflow prevention and derived from Ord. No. 96-06, § 1, adopted May 21, 1996. The historical notation has been retained with the amended provisions for reference purposes.

**§ 21-76. Introduction.**

A cross connection is defined by the American Water Works Association (AWWA) as "any connection or structural arrangement between the public's or a consumer's potable water system and any non-potable source or system through which backflow may occur." Backflow, literally a reversal in the normal direction of flow within a water system, is what turns a cross connection into a health hazard. Consequently, either cross connection or the chance of backflow must be eliminated to prevent these "unseen hazards" from degrading the high quality of water that the city utilities department strives to maintain.

(Ord. No. 2011-15, § 1, 9-7-11)

**§ 21-77. Purpose.**

The purpose of this division is to protect the potable water supply of the city from the possibility of contamination or pollution by isolating within its customer's internal system or systems those contaminants or pollutants which could backflow or back-siphon into the public water supply system; to promote the elimination or control of existing cross connections, actual or potential, between the customer's potable water system or systems and non-potable water systems, plumbing fixtures, and industrial piping systems; and provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

(Ord. No. 2011-15, § 1, 9-7-11)

**§ 21-78. Utilities department to administer program; applicability of provisions.**

- (a) The utilities department shall be responsible for administration of a cross-connection control and backflow prevention program that complies with rules established by the state department of environmental protection for protection of the public water supply system.
- (b) The utilities department shall install and maintain a backflow preventer device in every meter box where potable water is provided to an individually metered residential unit. Said backflow preventer device shall be changed out periodically in accordance with rules of the state department of environmental protection.
- (c) The provisions of this division shall apply to all commercial meters and irrigation meters connected to the City of Lake Wales water system.

(Ord. No. 2011-15, § 1, 9-7-11)

**§ 21-79. Definitions.**


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

*Approved.* Accepted by the city as meeting an applicable specification stated or cited in this division, or as suited for the proposed use.

*Auxiliary water supply.* Any water supply on, or available to, the premises other than the city's approved public potable water supply. These waters may be polluted or contaminated or they may be objectionable and constitute an unacceptable water source over which the city does not have sanitary control.

*Backflow.* The flow of water or other liquid, mixture, or substance under pressure into the distributing pipes of a potable water supply system from any source or sources other than its intended source.

*Backflow preventer.* A device or means designed to prevent backflow or back-siphonage. Only the following are considered to be backflow prevention devices:

(1) *Air gap separation.* A physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An "approved air gap separation" shall be at least double the diameter of the supply pipe measured vertically above the top of the rim of the vessel. In no case shall it be less than one (1) inch.

(2) *Reduced pressure backflow preventer.* A device containing within its structure a minimum of two (2) independently acting approved check valves, together with an automatically operating pressure differential relief valve located between the two (2) check valves. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow the pressure between the checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure. The unit shall include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

(3) *Atmospheric vacuum breaker.* A backflow prevention device which is operated by atmospheric pressure in combination with the force of gravity. The unit is designed to work on a vertical plane only. The one (1) moving part consists of a poppet valve which must be carefully sized to slide in a guided chamber and effectively shut off the reverse flow water when a negative pressure exists.

(4) *Pressure vacuum breaker.* A pressure vacuum breaker is similar to an atmospheric vacuum breaker except that the checking unit "poppet valve" is activated by a spring. This type of vacuum breaker does not require a negative pressure to react and can be used on a pressure side of a valve.

(5) *Double check valve assembly.* An assembly composed of two (2) single, independently acting, check valves, including tightly closing shutoff valves located at each end of the assembly and suitable connections for testing the water tightness of each check valve. A check valve is a valve that is drip-tight in the normal direction of flow when the inlet pressure is one (1) psi and the outlet pressure is zero. The check valve shall permit no leakage in a direction reverse to the normal flow. The closure element (e.g. clapper) shall be internally weighted or otherwise internally loaded to promote rapid and positive closure.

(6) *Residential dual check.* A compact unit manufactured with two (2) independent spring actuated check valves. The residential dual check is acceptable only as added backflow prevention in areas served by reuse systems defined in Chapter 62-610, Part III, FAC, when the cross connection control program identifies activities specific to subsections (5)(a) and (5)(b) of this section.

*Back-siphonage.* The flow of water or other liquid, mixture, or substance into the distributing pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.

*Contamination.* An impairment of the quality of potable water by sewage, industrial fluids, waste liquids, compounds, or other materials to a degree which creates a potential actual hazard to the public health through poisoning or through the spread of disease.

*Cross connection.* Any physical connection or arrangement of piping or fixtures between two (2) otherwise separate piping systems, one (1) of which contains potable water and the other non-potable water or industrial fluids of questionable safety, through which, or because of which, backflow or back-siphonage may occur into the potable water system. A water service connection between a public potable water distribution system and a customer's water distribution system which is cross-connected to a contaminated fixture, industrial fluid system, or with a potentially contaminated supply or auxiliary water system, constitutes one (1) type of cross connection. Other types of cross connection include connectors such as swing connections, removable sections, four-way plug valves, spools, dummy sections of pipe, swivel or changeover devices, sliding multiport tube, solid connections, and the like.

(1) *Cross connection control by containment.* The installation of an approved backflow prevention device at the water service connection to any customer's premises where it is not physically and economically feasible to find and permanently eliminate or control all actual or potential cross connections within the customer's water system; or the installation of an approved backflow prevention device on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross connections which cannot be effectively eliminated or controlled at the point of cross connection.

(2) *Cross connection—controlled.* A connection between a potable water system and a non-potable water system with an approved backflow prevention device properly installed that will continuously afford the protection commensurate with the degree of hazard.

*Director.* The director in charge of the city utilities department who is vested with the authority and responsibility for the implementation of an effective cross connection control program and for the enforcement of the provisions of this chapter.

*Hazard, degree of.* The term is derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system, and shall include:

(1) *Hazard—Health.* Any condition, device, or practice in the water supply system and its operation that could create, or in the judgment of the director, may create a danger to the health and well-being of the water consumer. An example of a "health hazard" is a structural defect, including a cross connection, in the water supply system.

(2) *Hazard—Plumbing.* A plumbing-type cross connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air-gap separation, or backflow prevention device. Unprotected plumbing-type cross connections are considered to be a health hazard.

(3) *Hazard—Pollutional.* An actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

(4) *Hazard—System.* An actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system or of a pollutant or contaminant which would have a protracted effect on the quality of the potable water in the system.

*Industrial fluids system.* Any system containing a fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollutional, or plumbing hazard if introduced into an approved water supply. This may include, but shall not be limited to: polluted or contaminated waters; all types of process waters and "used waters" originating from the public potable water system which may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalis; circulated cooling waters connected to an open cooling tower and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters such as from wells, springs, streams, rivers, bays, harbors, irrigation canals or systems, and the like; and oils, gases, glycerin, paraffins, caustic and acid solutions, and other liquid and gaseous fluids used in industrial or other purposes or for firefighting purposes.

*Pollution.* The presence of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.

*Utilities department.* The City of Lake Wales Utilities Department.

*Water.*

(1) *Water—Non-potable.* Water which is not safe for human consumption or which is of questionable potability.

(2) *Water—Potable.* Any water which, according to recognized standards, is safe for human consumption.

(3) *Water—Service connections.* The terminal end of a service connection from the public potable water system; that is, where the city loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter is installed at the end of the service connection, the service connection shall mean the downstream end of the meter. There should be no unprotected takeoffs from the service line ahead of any meter or backflow prevention device located at the point of delivery to the customer's water system. "Service connection" shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.

(4) *Water—Used.* Any water supplied from the public potable water system to a consumer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the city.

*Water system.* The water system shall be considered as made up of two (2) parts: the customer system and the utility system.

(1) The "customer system" shall include those parts of the facilities beyond the termination of the utility distribution system which are utilized in conveying utility-delivered domestic water to points of use.

(2) The "utility system" shall consist of the source facilities and the distribution system; and shall include all those facilities of the water system under the complete control of the utility, up to the point where the customer's system begins (meter). The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system. The distribution system shall include the network of conduits used for the delivery of water from the source to the customer's system.

(Ord. No. 2011-15, § 1, 9-7-11)

### **§ 21-80. Backflow prevention devices; when required; specifications.**

(a) No water service connection to any premises shall be installed or maintained unless the water supply is protected as required by state law and regulation (Florida Administrative Code Rule 17-555) and this division. Service of water to any premises shall be discontinued if a backflow prevention device required by this division is not installed, tested, and maintained, or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

(b) The customer's system should be open for inspection at all reasonable times to authorized representatives of the utilities department to determine whether cross connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the city shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition in conformance with state and city laws relating to plumbing and water supplies and the regulations adopted pursuant thereto.

(c) An approved backflow prevention device shall be installed on each service line to a customer's water system at or near the property line or immediately inside the building being served and, in all cases, before the first branch line leading off the service line, wherever the following conditions exist:

(1) In the case of premises having an auxiliary water supply which is not or may not be of safe bacteriological or chemical quality and which is not acceptable as an additional source by the director. The public water system shall be protected against backflow from the premises by installing a backflow prevention device in the service line appropriate to the degree of hazard.

(2) In the case of premises upon which any industrial fluids or any other objectionable substance is handled in such a fashion as to create an actual or potential hazard to the public water system, the public system shall be protected against backflow from the premises by installing a backflow prevention device in the service line appropriate to the degree of hazard. This shall include the handling of process waters and waters originating from the utility system which have been subject to deterioration in quality.

(3) In the case of premises having internal cross connections that cannot be permanently corrected and controlled, intricate plumbing and piping arrangements, or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross connections exist, the public water system shall be protected against backflow from the premises by installing a backflow prevention device in the service line. The type of protective device required shall depend upon the degree of hazard which exists, as follows:

a. In the case of any premises where there is an auxiliary water supply as stated in this section, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention device.

b. In the case of any premises where there is water or some substance that would be objectionable but not hazardous to health if introduced into the public water system, the public water system shall be protected by an approved double check valve assembly.

(4) In the case of any premises where there is any material dangerous to health which is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention device. Examples of premises where these conditions may exist include wastewater treatment plants, wastewater pumping stations, chemical manufacturing plants, hospitals, mortuaries, and metal plating plants.

(5) In the case of any premises where there are "uncontrolled" cross connections, either actual or potential, the public water system shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention device at the service connection.

(6) In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross connection survey, the public water system shall be protected against backflow or back-siphonage from the premises by the installation of a backflow prevention device in the service line. In this case, maximum protection will be required; that is, an approved air-gap separation or an approved reduced pressure principle backflow prevention device shall be installed in each service to the premises.

(d) Any backflow prevention device required herein shall be of a model and size approved by the director or his/her designee. The term "approved backflow prevention device" shall mean a device that has been manufactured in full conformance with the standards established by the American Water Works Association and entitled "AWWA C506-69 Standards for Reduced Pressure Principle and Double Check Valve Backflow Prevention Devices" and which has met completely the laboratory and field performance specifications of the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California established by "Specifications of Backflow Prevention Devices #69-2 dated March 1969" or the most current issue.

(1) Said AWWA and FCCC and HR standards and specifications are hereby adopted by the City of Lake Wales. Final approval shall be evidenced by a certificate of approval issued by an approved testing laboratory certifying full compliance with said AWWA standards and FCCC and HR specifications.

(2) It shall be the duty of the utilities department to perform certified inspections and operational tests at least once per year where backflow prevention devices are installed on commercial meters and irrigation meters. In those instances where the director deems the hazard to be great enough, certified inspections may be required at more frequent intervals. The cost of these inspections and tests shall be paid by the customer in accordance with section 21-172; said inspections and tests shall be performed by authorized utility personnel.

(3) All backflow prevention devices shall be repaired, overhauled, or replaced at the expense of the customer-user whenever said devices are found to be defective. The customer-user shall engage a licensed plumber to perform the work. Records of such repairs, overhauls, and replacements shall be kept and made available to the utilities department.

(4) All presently installed backflow prevention devices which do not meet the requirements of this division but were approved devices for the purposes described herein at the time of installation and which have been properly maintained shall, except for the inspection and maintenance requirements, be excluded from the requirements of these rules so long as the director is assured that they will satisfactorily protect the public potable water supply system. Whenever the existing device is moved from the present location or requires more than minimum maintenance, or when the director finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirements of this division.

(Ord. No. 2011-15, § 1, 9-7-11)

### **§ 21-81. Permit required for installation of backflow prevention devices.**

Florida Administrative Code Rule 62-555.360(4) requires that backflow prevention devices shall be installed in agreement with and under the supervision of the supplier of the water or its designated representative. Accordingly, a permit issued by the city and inspection by the city's building official or his/her designee following installation shall be required for every backflow prevention device installed on any commercial or irrigation connection to the city utility system.

(Ord. No. 2011-15, § 1, 9-7-11)

### **§ 21-82. Notice of violation; failure to remedy.**

If, in the judgment of the utilities department, an approved backflow prevention device is required at the city's water service connection to any customer's premises for the safety of the water system, the director or his designated agent shall give notice in writing to the customer to install such an approved backflow prevention device at each service connection to his premises. The customer shall immediately install such approved device or devices at his own expense; the failure, refusal, or inability on the part of the customer to install said device or devices immediately shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

(Ord. No. 2011-15, § 1, 9-7-11)

### **Division 3. Water Conservation**

#### **§ 21-86. Water shortage emergency—Use of water restricted.**

(a) During any period wherein a water emergency is proclaimed by the city commission, it shall be unlawful for any person to use or utilize water from the regular water mains or connections thereto within said city during the hours prohibited by an emergency proclamation for the purpose of watering lawns, shrubs, flowers, trees, gardens and other plant life not located in the confines of a home or livable building; filling swimming pools, drawing water to fill spray trucks or tank wagons or washing vehicles and other equipment.

(b) Every police officer and code enforcement officer of the city shall enforce the provisions of this division within the municipal limits in accordance with state and local law. The Polk County sheriff's office shall enforce the provisions of this division within those areas of the city's utility service area which are outside the municipal limits. In the initial stages of a water shortage, enforcement officials may attempt to provide violators with no more than one (1) written warning.

(c) Violation of the provisions of this section shall constitute a civil offense, and violators shall be subject to the following penalties:

(1) First violation. Twenty-five dollars (\$25.00).

(2) Second and subsequent violations. Fine not to exceed five hundred dollars (\$500.00) and/or imprisonment in Polk County jail not to exceed sixty (60) days. Each day in violation of this section shall constitute a separate offense.

(Ord. No. 96-06, § 1, 5-21-96)

#### **§ 21-87. Same—Proclamation.**

At such time as the city manager is informed by the director of utilities that the water supply is nearing the point of being inadequate to meet the needs of consumption, he shall investigate the reason therefor, and if he finds that the conditions are such that an emergency is prevalent, then he shall report his findings to the city commission who shall thereafter in its discretion proclaim a water emergency. Such proclamation shall be published at least weekly during the period the emergency exists and shall be in the following form:

**"PROCLAMATION  
OF WATER EMERGENCY"**

"The City Commission of the City of Lake Wales does hereby proclaim that a water emergency exists and hereby declares that it shall be unlawful for persons, firms and corporations to use the public water supply for purposes of watering lawns, shrubs, flowers, trees, gardens and the like, filling swimming pools, drawing water to fill spray trucks or tank wagons or washing vehicles and other equipment from \_\_\_\_\_ to \_\_\_\_\_ during any day from \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, 19 \_\_\_\_\_ to \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, 19 \_\_\_\_\_."

(Ord. No. 96-06, § 1, 5-21-96)

## **§ 21-88. Enforcement of water management district rules during a water shortage.**

(a) *Definitions.* For the purpose of this division, the following terms, phrases, words and their derivations shall have the meanings herein given. When consistent with the context, words used in the plural include the singular, and words in the singular include the plural. The Word "shall" is always mandatory and not merely directory.

*District* is the Southwest Florida Water Management District.

*Person* is any person, firm, partnership, association, corporation, company or organization of any kind.

*Water resource* is any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds or diffused surface water, and water percolating, standing or flowing beneath the surface of the ground.

*Water shortage condition* is when sufficient water is not available to meet present or anticipated needs of persons using the water resource or when conditions are such as to require temporary reduction in total water wage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

*Water shortage plan* means Chapter 40D-21, F.A.C., the codification of the water shortage plan adopted and published by the Southwest Florida Water Management District or any modification or derivation of Chapter 40D-21 which may be current at the time a water shortage or water shortage emergency is declared.

(b) *Application.* The provisions of this section shall apply to all persons using the water resource, whether from public or privately owned water utility systems, private wells or private connections with surface water bodies. This section shall not apply to persons using treated effluent or saltwater.

(c) *Declaration of water shortage; water shortage emergency.* The declaration of a water shortage or water shortage emergency affecting all or any persons of the city or its water service area by the governing board or the executive director of the district shall invoke the provisions of this section. Upon such declaration, all water use restrictions or other measures imposed by the district pursuant to Chapter 40D-21, Florida Administrative Code, applicable to the city or its water service area or any portion thereof, shall be subject to enforcement action pursuant to subsection (d). Any violation of the provisions of Chapter 40D-21 or any order issued pursuant thereto shall be a violation of this section.

(d) *Enforcement.* Every police officer and code enforcement officer of the city shall enforce the provisions of this section within the municipal limits in accordance with state and local law. The Polk County sheriff's office shall enforce the provisions of this section within those areas of the city's utility service area which are outside the municipal limits. In the initial stages of a water shortage, enforcement officials may attempt to provide violators with no more than one (1) written warning.

(e) *Penalties.* Violation of the provisions of this section shall constitute a civil offense, and violators shall be subject to the following penalties:

(1) *First violation.* Twenty-five dollars (\$25.00).

(2) *Second and subsequent violations.* Fine not to exceed five hundred dollars (\$500.00) and/or imprisonment in Polk County jail not to exceed sixty (60) days. Each day in violation of this section shall constitute a separate offense.

(f) *Acceptance of provisions required.* No water service shall be furnished to any person unless such person agrees to accept all the provisions of this section. The acceptance of water service shall be in itself the acceptance of the provisions contained herein.

(Ord. No. 96-06, § 1, 5-21-96)

## **Article IV. Stormwater System**

### **§ 21-96. Designated approved outlets for stormwater.**

Stormwater and all other unpolluted drainage shall be discharged to such lines as are specifically designated as stormwater lines, or to natural outlets approved by the city and the applicable regulatory agencies. Industrial cooling water or unpolluted process waters may be discharged on approval of the city and the applicable regulatory agencies to a stormwater natural outlet.

(Ord. No. 96-06, § 1, 5-21-96)

### **§ 21-97. Stormwater Charges**

*Effective: Tuesday, February 05, 2019*

**(a) Purpose and intent.** The purpose of this Ordinance is to protect the health, safety, and welfare of the general public through the administration and regulation of earthwork and drainage and to provide for a mechanism to provide funding for such activities. It is the intent of this Ordinance that the City will establish stormwater management as a city utility enterprise in accordance with Section 403.0893, Florida Statutes, and shall establish a program of utility fees for stormwater management services to be charged to all developed property within the City to accomplish the functions of the utility, which include, but are not limited to, maintenance, planning, design, construction, regulation, surveying, and inspection as they relate to the stormwater management system of the City.

**(b) Definitions.** As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

(1) *Building* means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a building.

(2) *Building Footprint* means the actual square footage of a Building as reflected on the Tax Roll, divided by the number of levels or floors within the Building.

(3) *City* means the City of Lake Wales, Florida.

(4) *City Manager* means the chief administrative officer of the City or such person's designee.

(5) *Clerk* means the City Clerk, or such other person as may be duly authorized to act on such person's behalf.

(6) *City Commission* means the governing body of the City of Lake Wales, Florida.

(7) *Comprehensive Plan* means the comprehensive plan adopted by the City pursuant to Chapter 163, Part II, Florida Statutes.

(8) *Condominium* means a condominium created by a declaration of condominium pursuant to Chapter 718, Florida Statutes.

(9) *Condominium Common Area Parcel* means a Tax Parcel including one or more "common elements" of a Condominium, as defined in Section 718.103, Florida Statutes, to which the Property Appraiser has assigned a DOR Code of 04 or 05, the taxable value of which has been attributed to Condominium Residential Unit Parcels by the Property Appraiser.

(10) *Condominium Residential Unit Parcel* means a parcel within the City constituting a Condominium "unit" (as defined in Section 718.103, Florida Statutes) to which the Property Appraiser has assigned a DOR Code of 04 or 05.

(11) *County* means Polk County, Florida.

(12) *Developed Property* means property that has been developed with impervious area including, but not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas and other surfaces which similarly impact the natural infiltration or runoff patterns which existed prior to development. Developed Property shall not include public roads.

(13) *DOR Code* means a property use code established in Rule 12D-8.008, Florida Administrative Code, as amended, and as applied by the Property Appraiser to parcels within the City.

(14) *Dwelling Unit* means a Building, or a portion thereof, which is located upon residential property and lawfully used for residential purposes, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family unit only.

(15) *ERU* means "**equivalent residential unit**," the standard unit used to express the Stormwater burden expected to be generated by each parcel of property. Based upon the average Impervious Area derived from a statistically valid sample of Single Family Residential Parcels, the City has computed an "ERU Value" of 3,652 square feet, which shall be used to calculate the number of ERUs attributable to each Developed Property.

(16) *General Parcel* means a parcel of Developed Property within the City that is not a Single Family Residential Parcel or a Condominium Residential Unit Parcel.

(17) *Impervious Area* means hard surfaced areas which either prevent or severely restrict the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas and other surfaces which similarly affect the natural infiltration or runoff patterns which existed prior to development.

(18) *Large Single Family Residential Parcel* means a Single Family Residential Parcel with an estimated Building Footprint between 2,841 and 5,100 (inclusive) square feet.

(19) *Medium Single Family Residential Parcel* means a Single Family Residential Parcel with an estimated Building Footprint between 1,331 and 2,840 (inclusive) square feet.

(20) *Mitigation Credit* means, for any parcel of Developed Property, a number between 0.0 and 1.0 representing a reduction in the Stormwater burden expected to be generated by such parcel attributable to privately maintained Stormwater management facilities and other factors affecting the quantity, quality, or rate of Stormwater runoff. The "Mitigation Credit" for each parcel shall be determined in accordance with Section 8 hereof.

(21) *Mitigation Credit Factor* means the figure computed by subtracting the Mitigation Credit from 1.00.

(22) *Mitigation Credit Policy* means the City of Lake Wales' Stormwater Utility Mitigation Credit Policy.

(23) *Mitigation Facility* means a manmade facility or structure on the site of a Developed Property which, by its design and function, retains Stormwater on-site and thus generates less volume of Stormwater from the site or produces Stormwater runoff at a lower rate or with less pollutants than would be the case in the absence of such facilities or structure.

(24) *Net ERU* means the standard unit used to express the Stormwater burden expected to be generated by each parcel of Developed Property, after taking into consideration any mitigation of the Stormwater burden that results from privately maintained Stormwater management facilities and other factors affecting the quantity, quality, or rate of Stormwater runoff

(25) *Property Appraiser* means the Property Appraiser of Polk County.

(26) *Single Family Residential Parcel* means a parcel of Developed Property within the City to which the Property Appraiser has assigned a DOR Code of 01 or 02.

(27) *Small Single Family Residential Parcel* means a Single Family Residential Parcel with an estimated Building Footprint between 100 and 1,330 (inclusive) square feet.

(28) *Stormwater* means the flow of water which results from, and which occurs following, a rainfall event.

(29) *Stormwater Basin* means a part of the earth's surface that contributes Stormwater runoff to a drainage system, which consists of diffuse surface waters, together with all natural or artificial tributary surface streams and/or bodies of impounded surface water.

(30) *Stormwater Basin Plan* means a policy document that is adopted by the City Commission for each Stormwater Basin or hydrologic subarea thereof in which Stormwater Improvements are proposed and that provides for implementation of the Stormwater Master Plan.

(31) *Stormwater Improvement* means land, capital facilities and improvements acquired or provided to detain, retain, convey or treat Stormwater.

(32) *Stormwater Master Plan* means a policy document adopted by the City Commission which identifies the levels of service for water quality and quantity management in the City, based upon the criteria in the Comprehensive Plan and applicable state and federal law, and the methods for prioritizing expenditures within the City. The Stormwater Master Plan shall designate those Stormwater Basins for which a Stormwater Basin Plan will be prepared.

(33) *Stormwater Management Service* means (A) maintenance, management and administration of the City's Stormwater Utility; (B) Stormwater program engineering; (C) Stormwater basin planning; (D) Stormwater facilities and improvements to be acquired or constructed; (E) operating and maintaining the City's facilities for Stormwater management, including extraordinary maintenance; (F) billing and collection of the Stormwater utility fees, including customer information services and reserves for statutory discounts; and (G) legal, engineering and other consultant services.

(34) *Stormwater Service Area* means the geographic area described in Section 5 herein that encompasses all parcels within the City which specially benefit from the Stormwater Management Service and all parcels to which Stormwater Management Services are provided.

(35) *Stormwater Service Cost* means the estimated amount for any Fiscal Year of all expenditures and reasonable reserves that are properly attributable to the Stormwater Management Services provided by the City to Developed Property under generally accepted accounting principles, including, without limiting the generality of the foregoing, reimbursement to the City for any moneys advanced for the Stormwater Management Service, and interest on any interfund or intrafund loan for such purpose.

(36) *Stormwater Utility* means the entity established to implement the Stormwater management program of the City.

(37) *Stormwater Utility Fee* means a fair and reasonable regulatory fee for service provided by the City to Developed Property to fund all or any portion of the Stormwater Service Cost at a just, fair, reasonable, and equitable rate based upon such property's Stormwater burden and the reasonable cost of providing Stormwater Management Services to such property.

(38) *Very Large Single Family Residential Parcel* means a Single Family Residential Parcel with an estimated Building Footprint greater than 5,100 square feet.

**(c) Legislative Findings.**

(1) Pursuant to Article VIII, section 2(b), Florida Constitution, and sections 166.021 and 166.041, Florida Statutes, the City has all powers of local self-government to perform municipal functions and render municipal services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of City Ordinances.

(2) The City Commission may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Commission may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of section 166.021(3), Florida Statutes, are not relevant to the imposition of Stormwater Utility Fees by the City.

(3) The purpose of this Ordinance is to (1) provide procedures and standards for the imposition of Stormwater Utility Fees under the constitutional and statutory power of the City; (2) authorize a procedure for the funding of Stormwater Management Services, facilities, or programs provided to properties within the Stormwater Service Area; and (3) legislatively determine the benefit provided to all parcels of Developed Property from the Stormwater Utility.

(4) Pursuant to the constitutional and statutory authority of the City and pursuant to section 403.0893, Florida Statutes, the City has the authority to create a Stormwater Utility and fund the construction, operation, maintenance, and administration of said utility through the imposition of a Stormwater Utility Fee.

(5) The Florida Legislature has mandated that local governments in the State of Florida, including the City, have the responsibility for developing mutually compatible stormwater management programs consistent with the rules and regulations of the Florida Department of Environmental Protection, the Federal Clean Water Act, and the water management districts and the stormwater management programs established and maintained by other local governments.

(6) The Stormwater Utility Fees imposed hereby are consistent with the authority granted in section 403.0893, Florida Statutes. That statutory provision is additional and supplemental authority to the constitutional and statutory power of self-government granted to a municipality.

(7) The Stormwater Utility regulates the use and enjoyment of all Developed Property within the City by treating and controlling contaminated Stormwater generated by improvements constructed on the Developed Property resulting in the alteration of such property from its natural state to accommodate such improvements.

(8) The special benefits provided by the Stormwater Management Services to all Developed Property located within the Stormwater Service Area include, but are not limited to: (1) the provision of Stormwater Management Services and the availability and use of facilities and improvements by the owners and occupants of Developed Property to properly and safely detain, retain, convey and treat Stormwater discharged from Developed Property; (2) stabilization of or the increase of Developed Property values; (3) increased safety and better access to Developed Property; (4) improved appearance; (5) rendering Developed Property more adaptable to a current or reasonably foreseeable new and higher use; (6) alleviation of the burdens caused by Stormwater runoff and accumulation attendant with the use of Developed Property; and (7) fostering the enhancement of environmentally responsible use and enjoyment of the natural resources within the Stormwater Service Area.

(9) The City's Stormwater Management Services are necessitated by the existence of Impervious Area. Accordingly, it is fair and reasonable to impose a Stormwater Utility Fee only against Developed Property containing at least 100 square feet of Impervious Area.

(10) Substantially all of the Stormwater burden managed, controlled, and treated by the Stormwater Utility is generated by Developed Property and the amount of Stormwater generated by property in its natural state that is managed, controlled and treated by the Stormwater Utility is inconsequential.

(11) The Stormwater Utility Fees imposed herein provide a reasonable method of funding the City's cost of providing Stormwater Management Services because such costs provide a reasonable estimation of the costs of providing Stormwater Management Services to such property based upon the City's budget and resource allocations and managing the Stormwater burden generated by the use of such property as individually classified on the basis of the Stormwater burden expected to be generated by the physical characteristics of such property.

(12) The Stormwater Utility Fee is reasonably related to the cost of providing Stormwater Management Services, including the collection, storage, treatment, and conveyance of Stormwater generated by Developed Property.

(13) The Stormwater Utility Fee is not a special assessment; it is a regulatory fee imposed for the Stormwater Management Service provided to Developed Property by the City's Stormwater Utility.

***(d) Stormwater Utility and Utility Fund.***

(1) There is hereby established a Stormwater Utility, which shall be the operational means of implementing and otherwise carrying out the functional requirements of the City's Stormwater management system to construct or acquire Stormwater improvements and provide Stormwater Management Services. The Stormwater Utility shall provide administration and management services in: the operation and maintenance of the City's capital facilities for Stormwater management; the preparation of Stormwater studies and the implementation of the Stormwater Utility; the regulation of Stormwater Basins; and the repair, replacement, improvement and extension of the City's capital facilities for Stormwater management. The Stormwater Utility shall place emphasis on the achievement of maximum efficiency through identifying programs and funding sources which are complementary to other regional, state and federal programs. The City Manager or his designee shall be responsible for administration of the Stormwater Utility.

(2) The City Commission intends to fund all or part of the cost of providing services and capital facilities for Stormwater management through Stormwater Utility Fees. The City Commission has further concluded that periodic determination of revenues earned and expenses incurred in connection with the provision of services and capital facilities for Stormwater management will enhance accountability and management control of the City's Stormwater Utility and will facilitate implementation of the City Commission's funding policy for Stormwater management. Accordingly, there shall be established a Stormwater utility fund. From an accounting perspective, the Stormwater utility fund shall be established as an enterprise fund.

***(e) Stormwater Service Area.***

(1) The City Commission hereby establishes the entire incorporated area of the City as the Stormwater Service Area.

(2) The Stormwater Utility shall provide Stormwater Management Services to all Developed Property within the Stormwater Service Area. All or any portion of the Stormwater Service Cost may be funded from the proceeds of the Stormwater Utility Fee.

(3) The Stormwater Utility may also acquire and construct capital facilities to assist and facilitate the provision of Stormwater Management Services within the Stormwater Service Area.

***(f) Stormwater Utility Fees.***

(1) The City Commission is hereby authorized to impose a Stormwater Utility Fee on all Developed Property within the Stormwater Service Area to fund all or any portion of the Stormwater Service Cost at a just, fair, reasonable, and equitable rate based upon such property's Stormwater burden and the reasonable cost of providing Stormwater Management Services to such property.

The rate of the Stormwater Utility Fee for each classification of property shall be determined by each property's individual number of ERUs based upon that property's amount of Impervious Area.

(2) The Stormwater Utility Fee will be computed for each parcel of Developed Property located within the Stormwater Service Area by multiplying the number of Net ERUs attributable thereto by the rate per ERU as established by separate Resolution. The rate of the Stormwater Utility Fee shall be established and amended by separate Resolution of the City Commission.

(3) The City Commission is also hereby authorized to impose Stormwater Utility Fees to fund all or any portion of the cost necessary to fund a Stormwater Improvement identified in any Stormwater Basin Plan or Stormwater Master Plan. The Stormwater Utility Fees to fund the capital cost or the debt service and related cost of any obligations issued to finance the cost of any Stormwater Improvements may be levied against all parcels of Developed Property within the Stormwater Service Area at a rate based upon the benefit accruing to such property from the Stormwater Improvement, measured by the number of ERUs attributable to each parcel.

Notwithstanding the foregoing, if the City Commission specifically determines that any portion of the Stormwater Service Area receives a distinct special benefit from any component of the Stormwater Management Service that is materially different in kind or degree from the special benefit received by other portions of the Stormwater Service Area, the Stormwater Service Cost related to such component shall be levied against the portion of the Stormwater Service Area receiving the distinct special benefit.

***(g) Assignment of ERU'S.***

(1) Each parcel of Developed Property located within the Stormwater Service Area shall be assigned to one of the following classifications: Small Single Family Residential Parcels, Medium Single Family Residential Parcels, Large Single Family Residential Parcels, Very Large Single Family Residential Parcels, Condominium Residential Unit Parcels, or General Parcels. ERUs shall be assigned to each parcel of Developed Property within the Stormwater Service Area in accordance with the procedures provided in this Section.

***(2) Single Family Residential Parcels.***

(i) The cost of measuring or verifying the Impervious Area for each individual Single Family Residential Parcel greatly exceeds any benefit to be derived from individual measurement and verification.

(ii) The City has computed an average Building Footprint of 1,073 square feet for a typical Small Single Family Residential Parcel with a total impervious area of 2,100 square feet. The number of ERUs attributable to each Small Single Family Residential Parcel shall be computed by dividing the total impervious area of the typical Small Single Family Residential Parcel by the total impervious area of the typical Medium Single Family Residential Parcel (3,652 square feet). Accordingly, the number of Net ERUs attributable to each Small Single Family Residential Parcel shall be computed by multiplying 0.58 ERUs by the appropriate Mitigation Credit Factor.

(iii) The City has computed an average Building Footprint of 2,073 square feet for a typical Medium Single Family Residential Parcel with a total impervious area of 3,652 square feet. Accordingly, the number of Net ERUs attributable to each Medium Single Family Residential Parcel shall be computed by multiplying one (1.0) ERU by the appropriate Mitigation Credit Factor.

(iv) The City has computed an average Building Footprint of 3,390 square feet for a typical Large Single Family Residential Parcel with a total impervious area of 5,546 square feet. The number of ERUs attributable to each Large Single Family Residential Parcel shall be computed by dividing the total impervious area of the typical Large Single Family Residential Parcel by the total impervious area of the typical Medium Single Family Residential Parcel (3,652 square feet). Accordingly, the number of Net ERUs attributable to each Large Single Family Parcel shall be computed by multiplying 1.52 ERUs by the appropriate Mitigation Credit Factor.

(v) The number of ERUs attributable to each Very Large Single Family Residential Parcel (parcels with a Building footprint in excess of 5,100 square feet) shall be computed in the manner provided herein for General Parcels.

**(3) *Residential Condominium Parcels.***

(i) A residential Condominium constitutes a unique form of real property ownership comprised of Condominium Residential Unit Parcels, to which there may be an appurtenant undivided share in Condominium Common Area Parcels.

(ii) It is fair and reasonable to attribute the Impervious Area of Condominium Common Area Parcels to the Condominium Residential Unit Parcels to which such Condominium Common Area Parcels are appurtenant.

(iii) The number of Net ERUs attributable to each Condominium Residential Unit Parcel in a residential Condominium shall be equal to the sum of the following: (a) the amount computed by multiplying (1) the amount calculated by (i) dividing the Impervious Area of the Condominium Complex on which the Condominium Residential Unit Parcel is located by the ERU Value (3,652 square feet), and (ii) dividing the result by the total number of Condominium Residential Unit Parcels located on such Condominium, and by (2) the appropriate Mitigation Credit Factor.

(4) *General Parcels.* The number of Net ERUs attributable to each General Parcel shall be determined by (1) dividing the Impervious Area of the General Parcel by the ERU Value (3,652 square feet), and (2) multiplying the result by the appropriate Mitigation Credit Factor.

***(h) Private Mitigation Facilities.***

(1) The City Commission recognizes the benefits provided by privately maintained Mitigation Facilities. Properties supporting private Mitigation Facilities should be credited for the public benefits they provide. Accordingly, the charges based on the number of ERUs otherwise attributable to such property may be adjusted by a Mitigation Credit determined in accordance with the City's Mitigation Credit Policy which may be adopted by the City Commission by separate Resolution. No Mitigation Credit shall exceed the amount of the Tax Parcel's Stormwater Utility Fee.

(2) In order to receive a new Mitigation Credit for which property is eligible, a nonresidential property owner shall be required to provide the City Utilities Director with "as built" drawings of the Mitigation Facilities sealed by a Florida registered professional engineer, a certification from a Florida registered professional engineer as to the standards of retention and detention achieved by the Mitigation Facilities, or such other reasonable requirements as may be necessary to effectuate the purposes of this section. Applicants for residential mitigation credits may include property owners, homeowners' associations and community development districts and shall provide sufficient information to adequately evaluate the basis for said credit.

(3) No Mitigation Credit shall be applied for service provided to property by a Mitigation Facility constructed or maintained with public funds. However, a Mitigation Credit shall be applied for service provided to property by a regional Mitigation Facility if the developer of the property provided a capital contribution to the regional facility in lieu of constructing on-site facilities.

***(i) Billing and Collection.***

(1) The Stormwater Utility Fees authorized herein shall be billed and collected on a monthly basis along with the City's other utility fees in the regular utility billing cycle, appearing as a separate line item. Bills for the Stormwater Utility Fees shall be payable at the same time, in the same manner, and subject to the same penalties as have been heretofore established for the other utility fees charged and administered by the City.

(2) In the event a Developed Property does not have other City utility service, a new account shall be developed and the property shall be billed by the City for the Stormwater Utility Fees on an annual basis.

(3) A monthly billing charge shall also be assessed against each City utility account provided however; only one billing charge shall be assessed, regardless of whether the customer receives water service, wastewater service, stormwater service, reclaimed water service or any combination thereof.

***(j) Adjustments and Appeals.***

(1) All requests for adjustment of the Stormwater Utility Fee shall be submitted to the City Utilities Director. The City Utilities Director shall review each request as follows:

(i) All requests shall be in writing and set forth in detail the grounds upon which relief is sought.

(ii) All adjustment requests shall be reviewed within four months from the date of submission. Adjustments resulting from such requests shall be retroactive to the date of submission.

(iii) The person requesting the adjustment may be required, at his or her own cost, to provide supplemental information to the City Utilities Director, including but not limited to survey data, traffic studies and other engineering reports prepared by a registered professional land surveyor (R.P.L.S.) or professional engineer (P.E.), as required. Failure to provide such information in a timely manner may result in denial of the adjustment request.

(iv) The City Utilities Director shall provide the person requesting the adjustment with a written determination of the request within the time provided herein.

(2) All determinations of the City Utilities Director pursuant to Section (j) may be appealed to the City Manager. Appeals must be filed with the City Manager within 30 days of issuance of the City Utilities Director's written determination. Appeals shall be determined by the City Manager within 30 days of filing. In evaluating appeals, the City Manager shall be bound by the method of setting rates as set forth in this Ordinance. The decision of the City Manager shall be final.

**(k) Revisions to Stormwater Utility Fees.** If any Stormwater Utility Fee made under the provisions of this Ordinance is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the City Commission is satisfied that any such Stormwater Utility Fee is so irregular or defective that the same cannot be enforced or collected, or if the City Commission has failed to charge any property that should have been charged, the City Commission may take all necessary steps to impose a new Stormwater Utility Fee against any such property, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Stormwater Utility Fee is annulled, the City Commission may obtain and impose other Stormwater Utility Fee until a valid Stormwater Utility Fee is imposed.

**(l) Procedural Irregularities.** Any irregularity in the proceedings in connection with the levy of any Stormwater Utility Fee under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Stormwater Utility Fee as finally approved shall be competent and sufficient evidence that such Stormwater Utility Fee was duly levied, that the Stormwater Utility Fee was duly made and adopted, and that all other proceedings adequate to such Stormwater Utility Fee were duly had, taken and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

**(m) Flooding; Liability.** Floods from Stormwater runoff may occasionally occur which exceed the capacity of Stormwater management facilities constructed, operated or maintained by funds made available under this Ordinance. This Ordinance shall not be construed or interpreted to mean that property subject to the fees and charges established herein will always (or at any time) be free from Stormwater flooding or flood damage, or that Stormwater systems capable of handling all storm events can be cost-effectively constructed, operated or maintained. Nor shall this Ordinance operate to create any liability on the part of, or cause of action against, the City, or any official or employee thereof, for any flood damage that may result from such storms or the runoff thereof. Nor does this Ordinance purport to reduce the need or the necessity for obtaining flood insurance by individual property owners.

(Ord. No. 2019-01, § 1, 2-05-19)

## **§ 21-98. Short title.**

*Effective: Wednesday, July 05, 2023*

This article shall be known as the Lake Wales Stormwater Quality Management Ordinance.

(Ord. No. 2023-17, § 1, 7-05-23)

## **§ 21-99. Finding of facts.**

*Effective: Wednesday, July 05, 2023*

The contribution of pollutants through discharges from storm sewer systems has a significant impact on the receiving waters in Lake Wales. Improperly treated discharges from industrial activities and interconnected municipal separate storm sewer systems (MS4s) and illicit discharges from spilling, dumping or disposal of material other than stormwater to the municipal separate storm sewer system will adversely affect the quality of waters receiving such discharges. The United States Environmental Protection Agency, pursuant to Title 40, Section 122.26 of the Code of Federal Regulations, has mandated that municipalities provide the legal authority to control discharges to the municipal separate storm sewer system under the National Pollutant Discharge Elimination System (NPDES) in order to control the quality of discharges from the MS4. The City Commission of Lake Wales therefore finds it necessary and in the public interest, to protect the quality of waters receiving stormwater discharges from becoming contaminated, for the health, safety, and general welfare of the citizens of Lake Wales.

(Ord. No. 2023-17, § 1, 7-05-23)

### **§ 21-100. Applicability.**

*Effective: Wednesday, July 05, 2023*

The regulations herein set forth shall apply to all areas within the corporate limits of Lake Wales. Code provisions or ordinances within Lake Wales that are in conflict with the provisions of this article shall take precedence and shall be used to supplement the requirements of this article.

(Ord. No. 2023-17, § 1, 7-05-23)

### **§ 21-101. Definitions.**

*Effective: Wednesday, July 05, 2023*

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application. Use of the word "shall" means mandatory and not merely discretionary.

*Best management practices (BMP's):* Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollutants from entering the MS4 or being discharged from the MS4 so as to protect or restore the quality of "waters of the United States." BMP's include, but are not limited to treatment methods and practices to control; site runoff, spillage, leaks, sludge, waste disposal or runoff from raw material.

*City Commission:* Commissioners of Lake Wales, Florida.

*Code of federal regulations (CFR):* The codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

*City:* "City" shall mean Lake Wales, a political subdivision of the State of Florida.

*Discharge:* "Discharge" includes, but is not limited to, any spilling, leaking, seeping, pouring, emitting, emptying or dumping of any material.

*Florida administrative code (FAC):* An annotated official compilation of the rules and regulations of the State of Florida, published by the Florida Secretary of State.

*Illicit discharge:* Any discharge to a municipal separate storm sewer system or to waters of the United States that is not composed entirely of stormwater, with the exception of discharges which are exempt pursuant to section 12-110 of this article.

*Industrial activities:* Activities which are conducted on properties designated for Industrial Land Use in accordance with local comprehensive plans and at facilities identified by the U.S. EPA as requiring a NPDES stormwater permit under the definition of "Storm Water Discharge Associated with Industrial Activity" in Title 40, Section 122.26 of the Code of Federal Regulations or any modification or derivative thereof.

*Inspection:* "Inspection" includes, but is not limited to a review of all components of the stormwater management system, records on operation and maintenance of facilities and the results of any monitoring performed for compliance with state, federal, and local regulations or permit conditions.

*Municipal or municipality:* "Municipal" or "municipality" shall include the incorporated city limits of Lake Wales, created by or pursuant to Florida law, which own or operate a municipal separate storm sewer system within Lake Wales.

*Municipal separate storm sewer system (MS4):* A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains) owned or operated by a municipality that discharges to waters of the United States and that is designed solely for collecting or conveying stormwater that is not part of a publicly owned treatment works (POTW) as defined by 40 CFR 122.2.

*National pollutant discharge elimination systems (NPDES):* The Federal program, implemented by the U.S. EPA, for controlling discharges from point source discharges directly into waters of the United States under the Clean Water Act.

*Person:* Any individual, partnership, firm, organization, corporation, association or other legal entity, whether singular or plural, as the context may require.

*Stormwater:* Surface runoff and drainage of water resulting from rainfall.

*Waters of the United States:* As defined by the U.S. Environmental Protection Agency (EPA) in Title 40, Section 122 of the Code of Federal Regulations or any modification or derivative thereof.

## **§ 21-102. Control of stormwater discharges—Discharges to municipal system and United States waters.**

*Effective: Wednesday, July 05, 2023*

(a) The discharge of stormwater to an MS4 shall be controlled to the extent that such discharge will not impair the operation of the MS4 or contribute to the failure of the MS4 to meet any state or federal requirements. Discharges to waters of the United States shall be controlled to the extent that the discharge will not adversely impact the quality or beneficial uses of the receiving water.

(b) Any person responsible for stormwater discharges determined by the municipality to be contributing to the impairment of waters of the U.S., either directly or through an MS4, shall provide corrective measures in accordance with a schedule approved by the municipality.

(Ord. No. 2023-17, § 1, 7-05-23)

## **§ 21-103. Discharges from industrial activities and construction sites.**

*Effective: Wednesday, July 05, 2023*

(a) Stormwater from construction sites shall be controlled in such a way as to retain sediment onsite and prevent violations of state water quality standards. All erosion and sediment controls required pursuant to the pollution prevention plan of a NPDES stormwater permit for construction or required pursuant to a state stormwater permit issued by either the Florida Department of Environmental Regulation or appropriate water management district shall be properly implemented, maintained and operated. The minimum acceptable requirements for construction sites are set forth in the Best Management Practices (BMP's) for Construction Activities, attached to Ordinance No. 21-111, and incorporated herein by reference.

(b) Stormwater from areas of industrial activity shall be treated or managed onsite, using best management practices, prior to discharging to an MS4 or to U.S. Waters. All stormwater discharges from the site shall be of a quality which will not adversely impact the water quality or beneficial uses of the receiving water.

(c) The owners of industrial facilities or construction sites which will discharge stormwater to an MS4, must provide written notification to the appropriate municipality prior to discharging.

(Ord. No. 2023-17, § 1, 7-05-23)

## **§ 21-104. Pollutant contributions from interconnected MS4's.**

*Effective: Wednesday, July 05, 2023*

The discharge of stormwater between interconnected states, county or other municipal storm sewer systems shall not impair the quality of the discharge from the receiving storm sewer system. Owners of sections of an interconnected MS4 shall be responsible for the quality of discharge from their portion of the system and shall coordinate with the owners of the downstream segments prior to initiating any modifications to the system.

(Ord. No. 2023-17, § 1, 7-05-23)

## **§ 21-105. Control of non-stormwater discharges—Prohibition of illicit discharges.**

*Effective: Wednesday, July 05, 2023*

Any discharge, other than stormwater, to an MS4 or to waters of the United States which is not exempt under section 21-110 of this article is considered an illicit discharge as defined in this article and is prohibited.

(Ord. No. 2023-17, § 1, 7-05-23)

## **§ 21-106. Reporting illicit discharges.**

*Effective: Wednesday, July 05, 2023*

Upon discovery of an illicit discharge, persons responsible for the discharge shall report their findings immediately to the municipality in which the discharge occurs.

(Ord. No. 2023-17, § 1, 7-05-23)

## **§ 21-107. Control of illicit discharges.**

*Effective: Wednesday, July 05, 2023*

Persons responsible for illicit discharges shall immediately, upon notification, initiate procedures to cease discharging or provide suitable containment facilities until modifications are made to properly treat the discharge, or a NPDES permit is obtained. Such procedures shall include a requirement to obtain approval of a schedule for implementing proposed corrective measures from the appropriate municipality.

(Ord. No. 2023-17, § 1, 7-05-23)

## **§ 21-108. Maintenance of control structures.**

*Effective: Wednesday, July 05, 2023*

Structural controls and other BMP's used to reduce pollutants in stormwater discharges shall be operated and maintained so as to function in accordance with the original design or performance criteria. Operation and maintenance shall be done so as to assure treatment of stormwater or reduction in pollutants in stormwater discharges consistent with appropriate federal, state or water management district rules or permit requirements.

(Ord. No. 2023-17, § 1, 7-05-23)

## **§ 21-109. Variances.**

*Effective: Wednesday, July 05, 2023*

Variances from specific requirements of this article shall be considered by the Public Works Director on a case by case basis to the extent that the granting of such variance will not adversely impact the quality of the receiving water or relieve a person from any federal, state or local requirements which may apply. Notification of variance application shall be provided to the owners of all MS4's within Lake Wales.

(Ord. No. 2023-17, § 1, 7-05-23)

## **§ 21-110. Exemptions.**

*Effective: Wednesday, July 05, 2023*

The following activities shall be exempt from the requirements of this article:

- (1) Discharges from firefighting and emergency response activities employing best management practices.
- (2) Discharges which meet the water quality standards of Chapter 17-302 FAC.
- (3) Discharges from facilities in compliance with the conditions of all required NPDES permits issued under the authority of the U.S. Environmental Protection Agency.
- (4) The storage, use or disposal of fertilizers, pesticides, herbicides or other regulated substances in strict conformance with the EPA registration, manufacturer's label requirements and any applicable federal, state or local regulations.

(Ord. No. 2023-17, § 1, 7-05-23)

### **§ 21-111. Enforcement, penalties and proceedings for injunction.**

*Effective: Wednesday, July 05, 2023*

- (a) Enforcement of this article shall be administered by Code Enforcement officers in Lake Wales. All persons in violation of this article shall address such violations immediately upon written notification by the appropriate Lake Wales authorities. Violations shall be addressed by providing a written response to the authority issuing the notification, requesting approval of the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of each of the corrective measures.
- (b) Any person who violates any provision of this article may be issued a citation pursuant to Lake Wales Ordinance 12-221, the Lake Wales Citation Ordinance, as amended, or may be subject to prosecution before the codes enforcement board and shall be subject to the administrative fines and liens set forth in the applicable ordinance. Each day of noncompliance shall constitute a separate violation of the applicable ordinance.
- (c) Any person who violates any section of this article may be prosecuted and punished as provided by Section § 12-225. Penalties, of the Lake Wales Code of Ordinances. Each day of the violation shall constitute a separate offense punishable with a maximum civil penalty not to exceed five hundred dollars (\$500.00) per violation.
- (d) In addition to any fines which may be imposed by this article, persons responsible for a discharge which adversely impacts a receiving water shall be liable for all sampling and analytical costs incurred in monitoring the discharge, any state or federal fines imposed as a result of the discharge and the cost of removing or properly treating the discharge for complete restoration of the quality of all receiving waters to the extent in which they were impaired.
- (e) In addition to the remedies provided herein, the appropriate City attorney is authorized to make application in circuit court for an injunction restraining any person from violating, or continuing to violate, any provisions of this article. Such application for injunction may also seek entry of a court order requiring restoration and mitigation for any impacted land or waters.

(Ord. No. 2023-17, § 1, 7-05-23)

## **Article V. Reclaimed Water System**

### **§ 21-121. Intent.**

Effective: Tuesday, November 01, 2022

It is the intent of the city to make reclaimed water available for irrigation purposes and other authorized uses within the Lake Wales Utility Service Area. The reclaimed water distribution system shall be constructed in sections to provide service to designated areas as determined by the city, pursuant to the terms and conditions set forth herein. It is further the intent of the city to establish a reclaimed water system which complies with the rules and regulations set forth by the Florida Department of Environmental Protection, which rules appear in Chapter 62-610, Florida Administrative Code.

(Ord. No. 2001-06, § 1, 5-15-01; Ord. No. 2022-48, § 1, 11-01-22)

### **§ 21-122. Definitions.**

For the purposes of this article, the following words, terms or phrases shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

*Available* shall mean that a functioning reclaimed water distribution main is located within one hundred (100) feet of the property to be serviced.

*Backflow prevention device* shall mean a device installed at the customer's potable water or reclaimed water meter to prevent the flow of any contaminated fluids into the public water system or reclaimed water system.

*Billing* shall mean the charge made for reclaimed water service. The charge may be made by a separate invoice or may be included on the monthly utility bill.

*City* shall mean the City of Lake Wales, Florida.

*Commission* shall mean the City Commission of the City of Lake Wales, Florida.

*County* shall mean Polk County, Florida.

*Cross-connection* shall mean any physical arrangement whereby a public potable water supply or reclaimed water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains or may contain contaminated water, sewage or other waste, or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public potable water supply or reclaimed water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeable devices, and other temporary or permanent devices through which or because of which backflow could occur are considered to be cross-connections.

*Customer* shall mean the owner of the property being served.

*Delivery points* shall mean the points of connection of the city's reclaimed water system to the user's system.

*Department* shall mean the Utilities Department of the City of Lake Wales, Florida.

*Director* shall mean the Director of the City's Utilities Department or his/her designated representative.

*Distribution mains* shall mean those conduits used to supply reclaimed water service lines.

*FAC* shall mean the Florida Administrative Code, as amended from time to time.

*F.S.* shall mean Florida Statutes, as amended from time to time.

*Irrigation system* shall mean an underground system with permanently placed sprinkler devices or below-ground hose bibbs contained in a locked valve box. Above-ground hose bibbs (faucets) with hoses and sprinklers shall not constitute an irrigation system. Irrigation systems also include agricultural ditch and swale type systems and other conventional agricultural systems where applicable and as authorized by the director.

*Non-potable water* shall mean all water other than potable water.

*Portable water* shall mean water from any source which has been approved for human consumption by the public health authority having jurisdiction in the county.

*Reclaimed water* shall mean water that has received at least advanced secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility.

*Reuse* shall mean the deliberate application of reclaimed water, in compliance with Florida Department of Environmental Protection and Southwest Florida Water Management District rules, for a beneficial purpose.

*Service line* shall mean that conduit for reclaimed water from the distribution main to the property line.

*Setback distances* shall mean the setback distances between the wetted site area subject to land application of reclaimed water, and surface waters and potable water supply wells, as required by the provisions of Chapter 62-610, Florida Administrative Code, Rule 610.471.

(Ord. No. 2001-06, § 1, 5-15-01)

### **§ 21-123. Authority to adopt rates, fees and charges.**

The commission shall have the authority to establish rates, fees and charges for the reclaimed water system and to provide current terms and conditions for the payment and collection of same. Rates, fees, charges and conditions for payment shall be provided in Article VI of this chapter.

(Ord. No. 2001-06, § 1, 5-15-01)

### **§ 21-124. Determination of property to be served.**

*Effective: Tuesday, November 01, 2022*

(a) *Designated service areas.* The city shall determine priorities for reclaimed water distribution pipelines and their extensions and designate reclaimed water service areas within the boundaries of the Lake Wales Utility Service Area in a manner consistent with its Wastewater Facility Plan, Comprehensive Plan, Five-Year Capital Improvements Plan, and other applicable planning documents adopted by the commission. The designated reclaimed water service area shall be all land within the Lake Wales Utility Service Area.

(b) *Service outside the Lake Wales Utility Service Area.* Reclaimed water service may be provided to property outside the Lake Wales Utility Service Area. Such service will be extended on an actual cost basis and may include service to a governmental entity. All applications for service outside the Lake Wales Utility Service Area shall be reviewed by the city, and such service shall be approved only if an adequate supply of reclaimed water is available to meet all anticipated needs within the Lake Wales Utility Service Area. The director shall review and approve all service line sizes and all other necessary design components. Final approval of reclaimed water service outside the Lake Wales Utility Service Area must be granted by the commission.

(c) *Availability of service.* The existence of a reclaimed water main adjacent to or near the premises of an applicant for service does not necessarily mean that service is available to that location. The director shall make a determination of reclaimed water availability based on total system demand, specific transmission/distribution capabilities within the subject project area, and the estimated cost of providing reclaimed water service to the subject project area. No service taps will be made to reclaimed water transmission mains larger than twenty-four (24) inches in diameter unless specifically approved by the director. Service in areas where only transmission mains exist will require installation of a distribution main, or approval on a case-by-case basis by the director for a service tap.

(d) *Right to service.* No payment of any costs, submittal of any application or petition, or undertaking of any other act to receive reclaimed water service shall guarantee such service. The city shall have the right, at all times, to refuse to extend service on the basis of a use detrimental to the system, inadequate supply of reclaimed water, lack of payment of required fees, or for any other reason which, in the judgement of the director, will cause the extension not to be beneficial to the city.

(Ord. No. 2001-06, § 1, 5-15-01; Ord. No. 2004-09, § 1, 5-18-04; Ord. No. 2022-48, § 1, 11-01-22)

## **§ 21-125. Extension of reclaimed water service within designated service areas.**

*Effective: Tuesday, November 01, 2022*

(a) *Where service is available.* Customers in designated reclaimed water service areas may connect to the reclaimed water system when service is available and upon submission and approval of an application for service and compliance with all other city requirements. A reclaimed water customer with an average daily consumption that will exceed one hundred thousand (100,000) gallons per day or a reclaimed water customer using a master meter to irrigate a golf course, shopping center, subdivision, multi-family complex, or other development area or a reclaimed water customer irrigating a property that exceeds five (5) acres in size shall, in lieu of an application for service, execute a reclaimed water use agreement with the city specifying terms and conditions of reclaimed water service.

(b) *Where service is not available.* Property owners in designated water service areas where service is not yet available shall petition the city on an appropriate form obtained from the department. This initial petition shall represent an expression of interest by the property owners and shall not constitute a binding commitment.

(1) Upon receipt of a petition from property owners in seventy-five (75) percent of the project area, the city shall prepare a preliminary estimate of the cost to extend a pipeline to the area of the interested property owners and prepare a customer packet consisting of:

- a. Formal petition cost estimate;
- b. Voluntary lien agreement;
- c. Application for reclaimed water service.

(2) If the estimated cost is agreeable to the property owner, the property owner shall execute a voluntary lien agreement and return it to the department. Upon the receipt of a valid voluntary lien agreement and application for service from seventy-five (75) percent of the property owners in the project area, a resolution prepared in accordance with the requirements of F.S. ch. 170, declaring a special assessment of all property owners in the property area shall be presented to the commission for action.

(3) Upon passage of the special assessment resolution, the department will design or cause to be designed a reclaimed water system for the approved project area and obtain bids to construct the project in accordance with the city's purchasing procedures.

(4) After bids are received, the director shall advise the petitioning property owners of any anticipated increase in the cost of extending the pipeline. Should the cost to extend the reclaimed water line exceed ten (10) percent of the initially estimated cost, each petitioning property owner shall have the right to withdraw the voluntary lien agreement before final approval of the project.

(5) If the best responsive bid to construct the reclaimed water system does not exceed ten (10) percent of the previously estimated cost or if the revised costs are acceptable to seventy-five (75) percent of the property owners and the voluntary lien agreements of seventy-five (75) percent of the property owners remain on record with the city, the commission may publish a preliminary assessment role that includes all property owners in the project area and hold a public hearing in accordance with F.S. ch. 170, for the purpose of giving final consideration to funding the project with special assessments. Following the public hearing, the commission may cancel the project or proceed to levy the special assessments. Thereafter, the commission shall meet as an equalizing board to hear and consider any and all complaints as to the special assessments and shall adjust and equalize the assessments in accordance with F.S. ch. 170. When so equalized and approved by resolution of the commission, a final assessment role shall be filed with the city clerk and such assessments shall stand confirmed and remain legal, valid, and binding first liens upon the property against which such assessments are made until paid. Following approval of the equalizing resolution, the commission may award the bid and authorize commencement of the project.

(6) After the project is completed, the city shall credit to each of the assessments the difference in the assessment as originally approved and the proportionate part of the actual cost of the project as finally determined. Said final assessment shall be calculated on the basis of capital cost to construct, less any state or federal aid received. In no event shall the final assessments exceed the amount of benefits originally assessed.

(7) The special assessment shall be payable at the time and in the manner stipulated in the resolution providing for the project. In accordance with F.S. § 170.09, the assessment shall bear interest at a rate not to exceed eight (8) percent per year, or, if improvement bonds are issued, at a rate not to exceed one (1) percent above the rate of interest at which the improvement bonds are issued. Assessments may be payable in equal installments over a period not to exceed thirty (30) years, and, if not paid when due, there shall be added a penalty at the rate of one (1) percent per month until paid. Assessments may be paid without interest at any time within thirty (30) days after connecting to the reclaimed water system.

(8) A claim of lien on behalf of the city will be filed by the city clerk for all assessments remaining unpaid at the end of thirty (30) days after connecting to the reclaimed water system.

(9) All actions taken in the process of funding an extension of reclaimed water service through special assessments shall comply with the requirements of F.S. ch. 170.

(c) *Requirements for new development in designated service areas.* All developers of new residential and commercial projects in a reclaimed water service area as designated in section 21-124 shall be required to construct in accordance with section 21-128 such lines, appurtenances, or facilities as will be necessary to utilize reclaimed water for irrigation purposes. All requirements provided in section 21-4 for construction of utility lines and other additions to the system shall pertain to the reclaimed water system. Such reclaimed water lines (or dry lines in the event reclaimed water service is not then presently available at the time of the issuance of a certificate of occupancy or completion) shall be installed in such a manner as to provide service to the entire property of the development, and the main lines shall be extended across the total property frontage to facilitate future extensions. These lines shall be installed during the initial placement of other required infrastructure items and prior to issuance of a certificate of occupancy or completion or use for the specific site or development. The cost of installing this system shall be borne by the developer. The city shall retain the right, at all times, to refuse or delay extension of service on the basis of inadequate supply of reclaimed water or for any other reason which, in the judgement of the director, will cause the extension not to be beneficial to the city.

(d) *Liability for permits.* The city shall obtain and fulfill, at its expense, all necessary permits and approvals for the construction and operation of the reclaimed water distribution mains constituting the city's reclaimed water system. Once service is available, any additional permits or approvals required for service to any particular customer, for the customer's benefit, shall be obtained at the sole expense of said customer.

(Ord. No. 2001-06, § 1, 5-15-01; Ord. No. 2004-09, § 1, 5-18-04; Ord. No. 2022-48, § 1, 11-01-22)

## **§ 21-126. Requirements for reclaimed water service applicants.**

(a) *Application.* Reclaimed water service shall be applied for in the utilities department by completing and signing an application form and hold harmless agreement. New customers applying for an initial connection in a project area funded by a special assessment shall also sign a voluntary lien agreement.

(b) *Dimensional plan.* Applications for all reclaimed water service within any right-of-way maintained by the city, county, or state shall include a dimensional plan showing the location of the requested service line and delivery point relative to the nearest street intersection, etc., as required by the city, the county, or the state department of transportation.

(c) *Irrigation system.* Before any application for reclaimed water service will be approved, the customer must have a suitable irrigation system. The irrigation system to be provided by the customer shall consist of an underground system with permanently placed sprinkler devices or below-ground hose-bibbs contained in a locked valve box. No system with a cross-connection to the potable water system will be considered for connection to the reclaimed water system. The system shall not include above-ground faucets or other devices or connections that could permit reclaimed water to be used for any purpose other than irrigation, unless such uses and system have been approved in writing by the director. All new irrigation systems constructed in areas where the city has determined to make reclaimed water available shall be constructed in accordance with Chapter 62-610, Florida Administrative Code. The customer shall provide the city with an irrigation system plan consisting of a schematic drawing of the irrigation system before receiving service. Temporary systems will not be considered for connection.

(d) *Easement.* An applicant for reclaimed water service to a site which does not have public access shall grant perpetual easements to the city for reclaimed water distribution facilities as required to provide reclaimed water service. Said easements shall be in a form acceptable to the city attorney and shall be submitted to the city with the application for service.

(e) *Flow meter.* All reclaimed water customers shall be required to utilize an appropriate sized flow meter. All meters for the reclaimed water system will be installed and owned by the city. An estimate for the cost of the meter and installation fees will be prepared by the department in accordance with section 21-161 and submitted to the applicant for payment prior to installation.

(f) *Cross-connection control.* On all premises where reclaimed water service is provided, the public or private potable water supply shall be protected by an approved backflow prevention device.

(1) All devices and material installed for backflow prevention must be approved by the director and must be installed in accordance with city standards. Where any cross-connection is found, it shall be disconnected. Before re-connection of that service, the public potable water system shall be protected against the possibility of future cross-connections, and additional devices may be required as specified by the director and installed at the customer's expense.

(2) All reclaimed water service serving commercial or industrial customers shall have a double check valve assembly approved by the director.

(3) Reclaimed water customers shall bear all costs of installation, testing, and maintenance of the protection device.

(g) *Restricted use agreement.* All applicants for reclaimed water service shall be required to sign a restricted use agreement prior to approval of the application and comply with the following:

(1) Use of reclaimed water shall be limited to irrigation of turf grass, shrubbery, ornamental plants, trees, bedding materials, potted plants, controlled containment areas such as greenhouses used for the purpose of cultivating ornamental plant vegetation and ornamental plant germination beds.

(2) Reclaimed water shall not be allowed to enter a dwelling or commercial unit for toilet flushing or other household uses.

(3) Reclaimed water shall not be used for human or animal consumption, interconnecting with another water source, sprinkling of edible crops or gardens, body contact recreation, use through hose bibbs, faucets, quick couplers, etc., filling of swimming pools, sharing a reclaimed service or connection between properties, augmenting lake or pond levels, filling of decorative ponds or fountains, supplying air cooling systems, or washing of equipment such as cars, boats, driveways, roofs, structures, etc.

(4) Reclaimed water shall not be permitted to discharge off-site, either directly or through a stormwater drainage system.

(5) Reclaimed water shall not be sold, bartered, traded, or otherwise transferred to any other person or entity without written authorization of the city.

(6) Any violation of the restricted use agreement shall result in immediate discontinuation of reclaimed water service and subject to penalties provided in section 21-131

(h) *Inspections.* To determine the presence of any potential hazards to the public potable water system and for the purposes of perpetual maintenance and repair of reclaimed water system appurtenances, the city shall have the right to enter upon the premises of any customer receiving reclaimed water. Each customer of reclaimed water service shall, by application, give written consent to such entry.

(Ord. No. 2001-06, § 1, 5-15-01)

### **§ 21-127. Discontinuation and interruption of service.**

(a) *Discontinuation of service by city.* The city may discontinue reclaimed water service to any customer due to a violation of the terms of this chapter or any other city regulation, nonpayment of bills, tampering with any service, plumbing of cross-connections with another water source, or the undertaking of any other activity that may be detrimental to the system. The city has the right to cease service until the condition is corrected and all costs due to the city are paid. These costs may include delinquent billings, connection charges, and payment for any damages to the system. Where the violation endangers the public health or safety of the public or customer, the reclaimed water service shall be subject to immediate discontinuation without prior written or verbal notice. Should discontinued service be restored without authorization of the city, such restoration shall be deemed a violation of the provisions of this chapter and shall incur penalties as provided in section 21-131

(b) *Discontinuation and reinstatement of service by customer.* A request to discontinue service must be received by the department at least two (2) business days prior to discontinuation. Service may be reinstated by a customer upon application for reinstatement and payment of any past due charges on the account. A request for reinstatement of service must be received by the department at least two (2) business days prior to reinstatement.

(c) *Service interruption.* The city reserves the right to temporarily interrupt service without notice to any portion of the reclaimed water system or the entire reclaimed water system as deemed necessary by the director. The director shall have the authority to establish schedules which restrict the use of the reclaimed water system at certain times in order to reduce maximum demands on the system and to regulate usage during periods of limited reclaimed water availability.

(Ord. No. 2001-06, § 1, 5-15-01)

### **§ 21-128. Requirements for reclaimed water facilities.**

*Effective: Tuesday, November 01, 2022*

(a) *Application for construction of reclaimed water extensions.* An application for construction of reclaimed water extensions shall be submitted to the city and approved by the director prior to construction.

(b) *Construction specifications.*

(1) Pipe, including color and labeling, shall meet or exceed standards set by the Florida Department of Environmental Protection and standards of the American Water Works Association.

(2) Pipe mains shall be a minimum of six (6) inches in diameter with the following exceptions:

- a. *Four-inch mains.* Mains that are four (4) inches in diameter will only be allowed by approval of the director, and in no case will be allowed for any extension serving more than five (5) domestic customers on a cul-de-sac or two (2) domestic customers on a line that is looped. Four-inch mains shall be connected at each end to a main that is six (6) inches or larger in diameter. A four-inch main shall be looped to a main six (6) inches or larger in diameter in a cul-de-sac.
- b. *Service lines.* Service line pipe size shall be required in accordance with the type or size of property served, but in no case shall be less than one (1) inch in diameter.

(3) Mains in the public rights-of-way shall be located a uniform distance from the curb, and the location shall be approved by the director.

(4) Vertical and horizontal clearances from potable water lines and sewage collection lines shall be as specified in the applicable Florida Department of Environmental Protection rules.

(5) All valves and outlets shall be placed in tamper-proof boxes and appropriately tagged or labeled to warn the public and employees that the water is not intended for drinking.

(6) Where irrigation mains are to be turned over to the city, the customer shall submit such documents as are normally required for the dedication of public facilities.

(7) "As-built" drawings shall be submitted to the department upon completion of the irrigation system.

(c) *Fire protection.* Hydrants shall be installed on mains constructed at such locations as deemed appropriate by the director for purposes of flushing the reclaimed water system to maintain water quality and may be used as an auxiliary source of water for fire protection. The pressure and/or volume of reclaimed water through a reclaimed water hydrant is not guaranteed.

(d) *Common service lines.* The director shall have the authority to approve one (1) service line to connect two (2) or more customers when sufficient capacity is available. In these cases, each customer shall pay the full connection charge. Common service lines will be sized to provide adequate service to each customer serviced.

(e) *Acceptance of facilities by city.*

(1) Public easement required. For reclaimed water lines and appurtenances which are initially installed by a person or entity other than the city, said lines and appurtenances shall not be accepted by the city for maintenance unless the facilities are within a dedicated public right-of-way or easement and the facilities are determined by the director to be in good working order. Any new easement or licensed or permitted area shall be adequately sized to accommodate construction and maintenance of any reclaimed water system component. No obstruction of whatever kind shall be planted, built, or otherwise created within the limits of the easement, right-of-way or licensed or permitted area without the written permission of the director.

(2) Ownership by city. All reclaimed water facilities and appurtenances within dedicated public rights-of-way or easements when constructed or accepted by the city shall become and remain the property of the city. No applicant or customer shall by payment of any charges provided herein, or by causing any construction of facilities accepted by the city, acquire any interest or right in any of these facilities or portions thereof, other than the privilege of having their property connected thereto for reclaimed water service in accordance with this article.

(3) Maintenance by city. All facilities that have been accepted by the city shall become the property of the city and shall be operated, maintained and repaired by the city. No person shall perform any work nor be reimbursed for any work on the system unless written authorization from the city is received prior to the work being accomplished.

(4) Liability for system failure. The city shall make a reasonable effort to inspect and keep its facilities in good repair, but assumes no liability for any damage caused by the system that is beyond the control of normal maintenance or due to situations not previously reported to the department. This shall include damage due to breaking of the pipes, poor quality of water caused by unauthorized or illegal entry of foreign material into the system, faulty operation of fire protection facilities, or other reasons.

(f) *Maintenance by customer.* The customer shall be responsible for the maintenance and repair of all irrigation lines and appurtenances on the customer's property, unless said facilities are located within land previously conveyed to the city or land in which the city has issued a license or permit to operate such facilities. The city reserves the right to disconnect the service to any property when the irrigation system appurtenances are not properly maintained or fail to meet the requirements of Chapter 62-610, Florida Administrative Code. In addition, should the customer require reclaimed water at different pressures or different quality, or in any way different from that normally supplied by the city, the customer shall be responsible for the necessary devices to make these adjustments and for obtaining the approval of the director.

(Ord. No. 2001-06, § 1, 5-15-01; Ord. No. 2022-48, § 1, 11-01-22)

### **§ 21-129. Authority to enter into and execute a reclaimed water use agreement.**

The commission hereby grants authority to the city manager to enter into and execute on behalf of the city a reclaimed water use agreement for any property located within the Lake Wales Utility Service Area.

(Ord. No. 2001-06, § 1, 5-15-01)

### **§ 21-130. Appeals to the commission.**

Any refusal by the city manager to grant service to an applicant shall be appealable to the commission. However, said appeal must be filed with the city clerk within fourteen (14) days of the date of the decision.

(Ord. No. 2001-06, § 1, 5-15-01)

### **§ 21-131. Penalties.**

Every person convicted of a violation of any particular provision of this article shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than sixty (60) days, or by both such fine and imprisonment. Each act of violation and every day upon which such violation shall occur shall constitute a separate offense. In addition, said provisions may be enforced by the city in accordance with Chapter 12, Lake Wales Code of Ordinances. In addition, the city may enjoin or abate any violation of this article by appropriate legal action.

(Ord. No. 2001-06, § 1, 5-15-01)

### **§ 21-132. Adoption of Chapter 62-610, FAC.**

The rules and regulations appearing in Chapter 62-610, Florida Administrative Code, as may be amended from time to time, are hereby adopted by reference as though fully set forth within this article. In the event of any variation between the provisions of Chapter 62-610, FAC, and the provisions of this article, the more strict provision shall prevail.

(Ord. No. 2001-06, § 1, 5-15-01)

## **Article VI. Charges And Fees For Utility Services**

### **Division 1. Generally**

#### **§ 21-151. Separate connections for each single-family residential unit.**

Each single-family residential unit whether occupying one (1) or more lots and whether it shall occupy any lot or parcel jointly with any other single-family residential unit shall be considered a separate unit for the payment of utility service charges and fees, and separate connections will be required for each of such units.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2001-06, § 1, 5-15-01)

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#### **EDITOR'S NOTE**

Formerly § 21-111.

#### **§ 21-152. No free service.**

(a) No utility service shall be furnished or rendered free of charge to any person, firm, corporation, institution or organization.

(b) The city and each and every agency, department or instrumentality which uses such services shall pay therefor at the rates established by this article.

(c) No person, firm, corporation, institution or organization shall be permitted to open a new utilities account if unpaid charges exist for any account previously held by such person, firm, corporation or institution. Where a new account has been opened without payment of charges existing for a previous account, current service shall be discontinued if such charges remain unpaid for more than thirty (30) days after notification by the city that such charges exist.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2001-06, § 1, 5-15-01)

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**EDITOR'S NOTE**


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Formerly § 21-112.

**§ 21-153. Deposit required.**

- (a) Deposits are required to cover two (2) months of charges for service at eight thousand (8,000) gallons for residential use, eight thousand (8,000) gallons per ERU for irrigation use, eight thousand (8,000) gallons per unit for Multi-Family use and four thousand (4,000) gallons per ERU for commercial use.
- (b) If any account becomes delinquent and remains delinquent as outlined in section 21-154(e) for the second time in a twelve-month period, an additional deposit shall be required to bring the total on deposit equal to twice the amount of the deposit normally required.
- (c) Interest on customer deposits shall be paid annually beginning with the first billing which follows January 1, 1997, and the first interest paid on customer deposits shall be calculated from January 1, 1996 through December 31, 1996. Interest shall be paid in the form of a credit applied to the customer's bill at the rate earned during the month when the interest credit is applied. Payment of interest on a new deposit shall be calculated on a pro-rated basis.
- (d) Upon receipt of a request for refund of deposit, the city shall refund a customer's deposit after three (3) years of continuous service without a delinquent payment or dishonored check. A refund of deposit shall occur only after the monies have been applied to any outstanding balances in closed accounts previously held by that same customer. If the customer's service is disconnected for delinquent payment or dishonored check after a deposit has been refunded, a new deposit shall be required before service is reconnected. Payment of interest on the deposit to be refunded shall be calculated on a pro-rated basis and added to the amount to be refunded.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2001-06, § 1, 5-15-01; Ord. No. 2006-35, § 1, 10-3-06; Ord. No. 2007-37, § 1, 9-18-07; Ord. No. 2011-28, § 1, 11-1-11)

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**REFNOTE**


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Formerly § 21-113.

**§ 21-154. Billing, payment and mandatory discontinuation of services.**

- (a) *Billing period.* Charges for services rendered by the utility system shall be billed by the city on a monthly basis and shall be paid by the user within twenty (20) days of being billed for such services. The "billing date" shall mean the date on which the bills are delivered to the U.S. Post Office for mailing. The date identified on the bill as the date on which the payment is due shall be twenty (20) days after the "billing date." If payment is hand-delivered to the city by the user, the "date paid" shall mean the date of receipt by the city's cashier. If the payment is mailed to the city by the user, the "date paid" shall mean the date on which the envelope is postmarked.

(b) *New accounts.* An administrative fee in the amount of fifteen dollars (\$15.00) shall be charged for the creation of a new customer account record and connection of service to the new account.

(c) *Dishonored checks.* Service shall be disconnected if a check tendered in payment of a utility bill is dishonored for any reason. The amount due on the account shall be paid in full by cash or money order prior to the reconnection of service. A fee in the amount of five (5) percent of the amount of the check or twenty dollars (\$20.00), whichever is greater, shall be assessed for each dishonored check as authorized by F.S. § 166.351. In addition, a fifteen dollar (\$15.00) reconnect fee shall be charged to the customer's account. If two (2) checks are returned in a six-month period, the city shall not accept a personal check from the customer for a twelve-month period beginning with the date on which the second check is dishonored.

(d) *Delinquent payment.* If any monthly bill for utility services shall be and remain unpaid after twenty (20) days from the date of being billed for such services, the account shall be considered delinquent. A delinquent payment penalty of one and one-half (1.5) percent of the bill shall be imposed and be added to the bill, provided, however, that said penalty shall not result in a combined penalty for water and sewer charges which exceeds fifty dollars (\$50.00). Exceptions to the imposition of a delinquent payment penalty are as follows:

(1) *Penalty exemption.* Persons who are eligible to receive Medicare or Medicaid benefits may receive an exemption from the payment of penalties on late payments provided said persons submit proof of such eligibility.

(2) *State agencies.* State agencies shall pay penalties on late payments as provided in F.S. § 215.422.

The city manager or his/her designee shall have the authority to waive the delinquent payment when extenuating circumstances exist which prevent the payment of utility charges by the date due for customer who have made timely payment for the prior twenty-four-month period.

(e) *Non-payment fee and mandatory cut off.* In addition to the penalty imposed by paragraph (d), if any monthly bill with an outstanding delinquent balance in excess of thirty dollars (\$30.00) for utility services which has remained unpaid six (6) days after the second billing notice has been mailed and no payment agreement has been executed as provided in paragraph (f) a twenty-five dollar (\$25.00) nonpayment fee shall be imposed and added to the bill. The utility services provided to the user shall be discontinued on the subsequent non-Friday business day and shall not be reconnected until all required deposits as provided in section 21-153(b), nonpayment fees, and past due charges have been paid. The city manager or their designee shall have the authority to waive the nonpayment fee when extenuating circumstances exist which prevent the payment of utility charges by the date due.

(f) *Payment agreements.*

(1) *Extension agreement.* The city in its sole discretion may permit a user to execute an agreement for extension of the due date when extenuating circumstances exist which prevent the payment of utility charges by the date due. Extension agreements are subject to the following conditions:

a. No extension shall be granted for a period greater than two (2) weeks.

- b. If the payment is not made by the date agreed upon, service shall be discontinued until all charges due are paid in full. If an extension payment is not made by the date agreed upon, the customer shall be ineligible for another extension agreement for a six-month period.
- c. No more than three (3) extension agreements per a six-month period shall be authorized.
- d. No extension agreement shall be authorized after service has been discontinued for a delinquent payment or for a dishonored check. A customer requiring an extension agreement shall enter into said agreement prior to having service disconnected.
- e. All extension agreements are subject to the approval of the city manager or his designee.
- f. The city manager or his/her designee shall have the authority to waive extension requirements, one (1) time per customer account, when extenuating circumstances exist which prevent the payment of utility charges by the date due providing payment in full is scheduled to be completed within forty-five (45) days.

(2) *Installment agreement.* The city in its sole discretion may permit a user to execute an agreement for installment payment of amounts due when extenuating circumstances exist which prevent the payment of the total amount due. Installment agreements are subject to the following conditions:

- a. Each installment payment shall be added to the bill for current charges and shall be paid by the user within twenty (20) days of being billed.
- b. An administrative fee of one and one-half (1½) percent shall be assessed against the charges paid by installment agreement.
- c. If an installment payment is not made, the payment agreement shall be terminated immediately and service shall be discontinued until all charges due on the account are paid in full.
- d. An installment agreement shall not be authorized for a monthly installment payment amount less than twenty-five dollars (\$25.00) and shall not be authorized for a period greater than twelve (12) months.
- e. No more than one (1) installment agreement per twelve-month period shall be authorized.
- f. No installment agreement shall be authorized after service has been discontinued for a delinquent payment or for a dishonored check. A customer requiring an installment agreement shall enter into said agreement prior to having service disconnected.
- g. All installment agreements are subject to the approval of the city manager or his designee.
- h. The city manager or his/her designee shall have the authority to waive installment requirements, one (1) time per customer account, when extenuating circumstances exist which prevent the payment of utility charges by the date due provided payment in full is scheduled to be received within twenty-four (24) months.

(g) *Enforcement of collections.* The city is authorized to pursue and shall pursue all legal means to collect monies due the system including, but not limited to, referral of delinquent accounts to collection agencies and filing a claim of lien, after review by the office of the city manager, against a property in the amount of the unpaid charges plus legal and administrative costs of the collection.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 96-22, § 1, 11-19-96; Ord. No. 2001-06, § 1, 5-15-01; Ord. No. 01-12, § 1, 9-18-01; Ord. No. 03-09, § 1, 4-15-03; Ord. No. 2006-49, § 1, 12-5-06; Ord. No. 2009-01, § 1, 2-3-09; Ord. No. 2011-28, § 1, 11-1-11)

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#### **EDITOR'S NOTE**

Formerly § 21-114.

### **§ 21-155. Establishment and revision of rates and charges.**

(a) The city shall establish a schedule of rates and charges to produce revenues from the utility system sufficient to pay the cost of maintaining, repairing and operating the utility system and leave a balance of such revenues so as to pay, when due, the principal and interest on the utility system revenue bonds of the city and accumulate and maintain prescribed revenues therefor and for renewals, replacements and betterments.

(b) The schedule of rates and charges established by this article shall be automatically adjusted annually beginning on October 1, 2008 to reflect an increase based on June's annual CPI or two and one-half (2.5) percent, whichever is greater, without further need for commission action.

(c) The schedule of rates and charges and the percent of automatic annual CPI increase shall be reviewed periodically and revised from time to time as may be necessary to produce revenues from the utility system sufficient to pay the cost of maintaining, repairing and operating the utility system and leave a balance of such revenues so as to pay, when due, the principal and interest on the utility system revenue bonds of the city and accumulate and maintain prescribed revenues therefor and for renewals, replacements and betterments.

(d) No rates, fees, rentals or other charges shall be reduced so as to render them insufficient to provide revenues in each year sufficient to pay the requirements for maintenance, repair and operating expenses and principal, interest and all reserve account payments or to comply with the rate covenants of utility system revenue bonds.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2001-06, § 1, 5-15-01; Ord. No. 01-12, § 1, 9-18-01; Ord. No. 2007-37, § 1, 9-18-07)

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#### **EDITOR'S NOTE**

Section 3 of Ord. No. 2007-37 provided for an effective date of Oct. 1, 2007.

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#### **REFNOTE**

Formerly § 21-115.

## **§ 21-156. Reserved.**

### **EDITOR'S NOTE**

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Ord. No. 2001-12, § 1, adopted Sept. 18, 2001, repealed § 21-156 in its entirety. Formerly, said section pertained to deposits of revenue as enacted by Ord. No. 96-06, § 1, adopted May 21, 1996; as amended.

## **§ 21-157. Public service tax not revenue of utility system; inclusion of other municipal charges on utility bill.**

- (a) The proceeds of any public service tax imposed and collected on bills for any utility service shall not be classified or included as revenues of the utility system but shall be classified and included as revenues of the general fund of the city.
- (b) Bills rendered by the city for solid waste disposal or other unrelated municipal services to the same premises may be included as a separate item or items on the utility bill, but the amounts thus collected shall not be classified or included as revenues of the utility system.
- (c) Charges assessed against a property for any municipal purpose may be included as a separate item or items on the utility bill, but the amounts thus collected shall not be classified or included as revenues of the utility system.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2001-06, § 1, 5-15-01)

### **EDITOR'S NOTE**

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Formerly § 21-117.

## **Division 2. Sewer Charges And Fees**

### **EDITOR'S NOTE**

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Formerly § 21-117.

## **§ 21-161. Schedule of rates for sewer service.**

*Effective: Tuesday, September 15, 2015*

The city shall implement the sewer rates established on Schedule "A" which is attached hereto and incorporated by reference and which may be amended from time to time for the use of the facilities and services of the now existing sewer system and any other sewer system hereafter constructed or otherwise acquired by the city as provided for by this chapter:

### **EXHIBIT "A"**

#### **SEWER RATES**

Sewer Rates	Inside City	Outside City
Services Availability Charges:		

ERU's	Residential (per Meter)		
	Service Availability Charge:		
ERU's	Residential (per Meter)		
1	¾" Meter	24.79	30.98
1	1.0" Meter	24.79	30.98
5	1.5" Meter	123.95	154.93
8	2.0" Meter	198.30	247.89
16	3.0" Meter	396.61	495.75
1	Residential Vacation Rate	12.40	15.49
0.8	Multi-Family (per unit)	19.83	24.78
ERU's	Commercial (per Meter)		
1	¾" Meter	24.79	30.98
2.5	1.0" Meter	61.97	74.04
5	1.5" Meter	123.95	154.93
8	2.0" Meter	198.30	247.89
16	3.0" Meter	396.61	495.75
25	4.0" Meter	619.69	774.60
50	6.0" Meter	1,239.41	1,549.25
Sewer Gallonage Charges:		Inside City	Outside City
Volume Charges (per 1,000 gallons)			
	Block 1	3.25	4.06
	Block 2	5.70	7.13
Sewer Usage Blocks		Per ERU	
	Block 1	Up to 5,000	
	Block 2	5,000	
Residential is capped at fifteen thousand (15,000) gallons per ERU. Multi-family is capped at twelve thousand (12,000) gallons per unit. Commercial is not capped.			
Fifty (50) percent of Base Charge for availability of service will be assessed on any meter without consumption during reading cycle when service has been temporarily disconnected at the request of the customer.			

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2001-06, § 1, 5-15-01; Ord. No. 2001-12, § 1, 9-18-01; Ord. No. 2006-35, § 1, 10-3-06; Ord. No. 2007-37, § 1, 9-18-07; Ord. No. 2015-07, § 1, 9-15-15)

## NOTATION

### Editor's note

Section 3 of Ord. No. 2007-37 provided for an effective date of Oct. 1, 2007.

refnote

Formerly § 21-121

## **§ 21-162. Relief from charges resulting from excessive water consumption due to severe leaks.**

When it is verified by utilities department staff that excessive consumption has been caused by a severe leak in the internal system of the customer and that repairs have been made by the customer, the customer's sewer charges for the period of the excessive consumption shall be adjusted to reflect the average water consumption for the twelve (12) month period prior to the excessive consumption. If the account has less than a twelve (12) month service history, charges for the period of the excessive consumption shall be adjusted to reflect the average water consumption for the period during which the customer has been served.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2001-06, § 1, 5-15-01)

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### **EDITOR'S NOTE**

Formerly § 21-122

## **§ 21-163. Sewer system impact fee.**

(a) A sewer system impact fee will be charged for the proposed new connection to the sewer system in accordance with sections 23-411 through 23-423 of this Code. For those customers residing within the utility service area, wherein service is available, a fee for sewer expansion capital needs will be charged as provided in section 23-425.

(b) Payment of the sewer system impact fee shall be made prior to connection to the sewer system.

(c) The sewer system impact fee will be deposited into the Wastewater System Impact Fee Trust Account immediately upon receipt. Impact fees deposited into said account shall be used solely for the purpose of constructing or improving the city's wastewater system as provided in section 23-425.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2001-06, § 1, 5-15-01)

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### **EDITOR'S NOTE**

Formerly § 21-123

## **§ 21-164. Sewer stub location and installation.**

(a) All customers connecting with the sewer system of the city shall be charged an amount sufficient to cover the cost of installing a sewer stub, which fee shall be applicable to inside-city customers as follows:

(1) A sewer stub location fee of twenty-eight dollars and ninety-nine cents (\$28.99) will be charged whenever excavation is required to locate a sewer stub.

(2) When a sewer stub is not available on an existing sewer main, an appropriate installation fee shall be presented to the customer; the fee shall be based on the actual cost of materials, labor and equipment as shall be established from time to time by the director of utilities and approved by the city manager.

(3) The twenty-five dollar (\$25.00) cost of the sewer stub location shall be deducted from the cost of the sewer stub installation when a sewer stub is not available on an existing sewer main.

(4) Sewer stub location fees as stated in subsection (1) above shall be charged for all applicable outside-city users at the rate of one hundred fifty (150) percent of the charges stated.

(b) The sewer stub location and installation fees represent the service cost for connecting to the system only and shall be in addition to the established monthly charge for service and the sewer impact fee. Payment of sewer stub location and installation fees shall be made prior to connection to the sewer system. The physical connection from the house to the stub shall be made by a licensed plumber at the property owner's expense.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2001-06, § 1, 5-15-01; Ord. No. 2001-12, § 1, 9-18-01)

#### **EDITOR'S NOTE**

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Formerly § 21-124

### **Division 3. Water Charges And Fees**

#### **EDITOR'S NOTE**

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Formerly § 21-124

#### **§ 21-171. Schedule of rates for water service.**

*Effective: Tuesday, September 15, 2015*

The city shall implement the water rates established on Schedule "B" which is attached hereto and incorporated by reference and which may be amended from time to time for the use of the facilities and services of the now existing water system and any other water system hereafter constructed or otherwise acquired by the city as provided for by this chapter:

#### **EXHIBIT "B"**

#### **WATER RATES**

Water Rates		Inside City	Outside City
<b>Services Availability Charges:</b>			
ERU's	Residential (per Meter)		
1	¾" Meter	6.98	8.73
1	1.0" Meter	6.98	8.73
5	1.5" Meter	34.90	43.63
8	2.0" Meter	55.84	69.80

1	Residential Vacation Rate	3.49	4.36
0.8	Multi-Family (per unit)	5.58	6.98
ERU's	Commercial (per Meter)		
1	¾" Meter	6.98	8.73
2.5	1.0" Meter	17.45	21.81
5	1.5" Meter	34.90	43.62
8	2.0" Meter	55.84	69.80
16	3.0" Meter	111.68	139.60
25	4.0" Meter	174.50	218.12
50	6.0" Meter	349.00	436.25
ERU's	Irrigation (per Meter)		
1	¾" Meter	6.98	8.73
2.5	1.0" Meter	6.98	8.73
5	1.5" Meter	34.90	43.63
8	2.0" Meter	55.84	69.80
16	3.0" Meter	111.68	139.60
Water Gallonage Charges:	Inside City	Outside City	
Volume Charges (per 1,000 gallons)			
	Block 1	2.76	3.45
	Block 2	3.73	4.67
	Block 3	5.79	7.24
	Block 4	9.54	11.93
Water Usage Blocks	Per ERU		
	Block 1	Up to 5,000	
	Block 2	5,001 - 10,000	
	Block 3	10,001 - 25,000	
	Block 4	25,001	
Fifty (50) percent of Base Charge for availability of service will be assessed on any meter without consumption during reading cycle when service has been temporarily disconnected at the request of the customer.			

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2001-06, § 1, 5-15-01; Ord. No. 2001-12, § 1, 9-18-01; Ord. No. 2006-35, § 1, 10-3-06; Ord. No. 2007-37, § 1, 9-18-07; Ord. No. 2015-07, § 1, 9-15-15)

## NOTATION

### Editor's note

Section 3 of Ord. No. 2007-37 provided for an effective date of Oct. 1, 2007.

### refnote

Formerly § 21-131

## **§ 21-172. Miscellaneous charges for water system services.**

*Effective: Tuesday, November 17, 2015*

- (a) *Fire hydrants.* (Payable quarterly) per year per hydrant ....\$35.00
- (b) *Meter installation and service charge:* The charge for installing a water meter shall be the cost of materials and labor as established by the city.
- (c) *Construction meter fee.* For all construction or other temporary water service installation, the deposit shall be fifteen hundred dollars (\$1500.00). All construction meters or other temporary water service installation will be billed a flat fee of two dollars and forty-seven cents (\$2.47) per day for use of the meter.
- (d) *"Read and time" service charge.* A service charge of twenty-eight dollars and ninety-nine cents (\$28.99) will be required on all accounts requesting a re-read and timing for leaks unless the results of the "read and time" examination indicate that the city is the party responsible for correcting the problem. If the city is the responsible party, no service charge shall be incurred by the customer, and the problem shall be corrected by the city.
- (e) *Wholesale rate.* A wholesale rate of one dollar and thirty-nine cents (\$1.39) per one thousand (1,000) gallons shall be charged for the use of water by facilities owned, operated or maintained by the city for public purposes and for the bulk sale of water to the utilities department of a governmental agency.
- (f) *Temporary service.* Temporary service may be provided for the purpose of cleaning a vacant building. The owner or agent for the owner may obtain temporary service after payment of a temporary service fee equal to the current minimum charge for water and sewer service. Charges for consumption in excess of five thousand (5,000) gallons shall be billed to the owner or agent for the owner who has requested temporary service.
- (g) *Service availability analysis.* All customers seeking to make a new connection to the water system of the city shall be charged an amount sufficient to cover the cost of analyzing availability of service, which fee shall be applicable to inside-city customers as follows:
  - (1) A water service line location fee of twenty-eight dollars and ninety-nine cents (\$28.99) will be charged to locate a water service.
  - (2) When a water service line is not readily available on an existing water main, an appropriate installation fee shall be presented to the customer; the fee shall be based on the actual cost of materials, labor and equipment as shall be established from time to time by the director of utilities and approved by the city manager. The cost of the water service line location shall be deducted from the cost of the water service installation.
  - (3) Water service line location fees as stated in subsection (1) shall be charged for all applicable outside city users at the rate of one hundred fifty (150) percent of the charges stated.

(4) The water service line location and installation fees represent the service cost for connecting to the system only and shall be in addition to the established monthly charge for service and the water impact fee. Payment of water service line location and installation fees shall be made prior to connection to the water system.

(h) *Backflow preventer device inspection.* All commercial meters and irrigation meters shall pay two dollars and fifty cents (\$2.50) per month for annual inspection and other costs associated with administration of the city's cross connection control and backflow prevention program as required by the state department of environmental protection.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2001-06, § 1, 5-15-01; Ord. No. 2001-12, § 1, 9-18-01; Ord. No. 2007-06, § 1, 4-4-07; Ord. No. 2010-02, § 1, 3-16-10; Ord. No. 2011-15, § 1, 9-7-11; Ord. No. 2015-12, § 1, 11-17-15)

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## NOTATION

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### refnote

Formerly § 21-132

## **§ 21-173. Relief from charges resulting from excessive water consumption due to severe leaks.**

When it is verified by utilities department staff that excessive consumption has been caused by a severe leak in the internal system of the customer and that repairs have been made by the customer, the customer's water charges for the period of the excessive consumption shall be adjusted as follows:

(1) After determination of the customer's average consumption for the twelve (12) month period prior to the excessive consumption, such average consumption shall be billed at the rate normally charged to the customer. If the account has less than a twelve (12) month service history, charges for the period of the excessive consumption shall be adjusted to reflect the average water consumption for the period during which the customer has been served.

(2) All consumption in excess of the customer's average consumption shall be billed at the wholesale rate.

(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 2001-06, § 1, 5-15-01)

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## EDITOR'S NOTE

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Formerly § 21-133.

## **§ 21-174. Water system impact fee.**

(a) A water system impact fee will be charged for the proposed new connection to the water system in accordance with sections 23-411 through 23-423 of this Code. For those customers residing within the utility service area, wherein service is available, a fee for water system expansion capital needs will be charged as provided in section 23-424.

(b) Payment of the water system impact fee shall be made prior to connection to the water system.

(c) The water system impact fee will be deposited into the Water System Impact Fee Trust Account immediately upon receipt. Impact fees deposited into said account shall be used solely for the purpose of constructing or improving the city's water system as provided in section 23-424.

(Ord. No. 2001-06, § 1, 5-15-01)

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**EDITOR'S NOTE**

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Formerly § 21-134.

**Division 4. Reclaimed Water Charges And Fees**

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**EDITOR'S NOTE**

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Formerly § 21-134.

**§ 21-181. Schedule of rates for reclaimed water service.**

(a) There is hereby levied a charge for connection to and use of the facilities and services of the reclaimed water system in accordance with rates established herein which shall be automatically adjusted on an annual basis in accordance with section 21-155 to reflect an increase of two and one-half (2½) percent without further need for commission action, said increase to adjust for typical annual increases in the CPI. The first such rate adjustment shall occur after the system has been operational and providing reclaimed water services for a minimum period of twelve (12) months.

	Inside City	Outside City
Usage fee, per 1,000 gallons	\$0.30	\$0.38
Commercial/industrial application/inspection fee	60.00	75.00
Service connection fee*		
5/8" connection	165.00	206.25
1" connection	265.00	331.25
1½" connection	440.00	550.00
Larger than 1½" connection	cost of labor and materials as established by the city	

\*Note: Connection fee will be waived if the service connection is installed by the commercial/industrial customer with the approval of the city.

(b) Well credit transfers may result in a negotiated rate for reclaimed water service. The city manager is authorized by this division to negotiate said rate where applicable.

(Ord. No. 2001-06, § 1, 5-15-01)

**§ 21-182. Billing, payment and mandatory discontinuation of service.**

All provisions of section 21-154 shall apply to the billing, payment and mandatory discontinuation of reclaimed water service.

(Ord. No. 2001-06, § 1, 5-15-01)

## **Division 5. Lifeline Program**

### **§ 21-191. Lifeline.**

Lifeline is an assistance program for Lake Wales' residential water and sewer customers which are low-income households. The Lifeline assistance reduces the residential customer's monthly water/sewer utility bill by an amount equivalent to the established base charge for the residential customer's household water and/or sewer services.

The reduction is in the form of a credit on the residential utility customer's monthly bill.

(Ord. No. 2007-54, § 1, 10-16-07)

### **§ 21-192. Eligibility.**

Participation is limited to ten (10) percent of total utility customers. The ten (10) percent quota will be recalculated yearly with an effective date of October 1 each year. Applications will be processed in the order they are received. Applications, in order to be processed, must be filed by the applicant at the Utility Customer Service area located in the City's Municipal Administration Building. Lifeline is available to City of Lake Wales's residential utility customers as limited above who meet one of the following criteria:

- (a) The utility account must be in the name of the participant who receives public assistance from any one of these programs: Food stamps, Medicaid, Federal Public Housing Assistance (Section 8), Supplement Security Income (SSI), Low-Income Home Energy Assistance Program (LIHEAP), Temporary Assistance to Needy Families (TANF), or National School Lunch (NSL) Program's Free Lunch Program; OR
- (b) The utility account must be in the name of the eligible low-income, head of household. Income is determined by the federal poverty guidelines, which are based on the number of people in the household and the total amount of money received by each member in the household. The household income must be less than one hundred thirty-five (135) percent of the U.S. Poverty Guidelines.

(Ord. No. 2007-54, § 1, 10-16-07)

### **§ 21-193. Documentation.**

Documentation, as set forth below, supporting Lifeline eligibility must be submitted with the application for assistance:

- (a) Proof of participation in any one of the public assistance programs listed in subsection 21-192(a) must be submitted with the Lifeline Public Assistance Application.

(b) Proof of household income supporting documents include U.S. Individual Income Tax Statement, W-2 Wage and Tax Statement, Social Security Statement of Benefit, Veteran's Administration Statement of Benefit, Public/Private Retirement/Pension Statement, Unemployment Benefit Statement, Worker's Compensation Statement of Benefit, Divorce Decree, Child Support Decree, or other official agency document. Lifeline applicants may provide proof of the total household income by including copies of the documents that apply with the Lifeline Low-Income Assistance Application.

(Ord. No. 2007-54, § 1, 10-16-07)

#### **§ 21-194. Confidentiality.**

All information relating to the Lifeline program shall be considered confidential and will not be disclosed to any other individuals unless required for legitimate business or otherwise compelled by law.

(Ord. No. 2007-54, § 1, 10-16-07)

#### **§ 21-195. Renewal.**

To be able to continue in the program, recipients must re-apply annually. Assistance will terminate one year from approval date. Recipients must notify the City's Utility Department when they are no longer eligible for this assistance program. No renewal notifications will be sent.

(Ord. No. 2007-54, § 1, 10-16-07)

#### **§ 21-196. Billing, payment and mandatory discontinuation of service.**

All provisions of section 21-154 shall apply to billing, payment and mandatory discontinuation of utility services.

(Ord. No. 2007-54, § 1, 10-16-07)