



# CITY COUNCIL REGULAR MEETING CITY OF BAY CITY

Tuesday, December 01, 2020 at 6:00 PM  
COUNCIL CHAMBERS | 1901 5th Street

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## COUNCIL MEMBERS

**Mayor:** Robert K Nelson

**Mayor Pro Tem:** Jason W. Childers

**Council Members:** Brent P. Marceaux, Becca Sitz, Floyce Brown, Jim Folse

*Bay City is committed to developing and enhancing the long-term prosperity, sustainability, and health of the community.*

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## AGENDA

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**THE FOLLOWING ITEM WILL BE ADDRESSED AT THIS OR ANY OTHER MEETING OF THE CITY COUNCIL UPON THE REQUEST OF THE MAYOR, ANY MEMBER(S) OF COUNCIL AND/OR THE CITY ATTORNEY:**

*ANNOUNCEMENT BY THE MAYOR THAT COUNCIL WILL RETIRE INTO CLOSED SESSION FOR CONSULTATION WITH CITY ATTORNEY ON MATTERS IN WHICH THE DUTY OF THE ATTORNEY TO THE CITY COUNCIL UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THE OPEN MEETINGS ACT (TITLE 5, CHAPTER 551, SECTION 551.071(2) OF THE TEXAS GOVERNMENT CODE).*

### CALL TO ORDER

### INVOCATION & PLEDGE

Texas State Flag Pledge: *"Honor The Texas Flag; I Pledge Allegiance To Thee, Texas, One State Under God, One And Indivisible."*

*Councilman Brent Marceaux*

### CERTIFICATION OF QUORUM

### MISSION STATEMENT

The City of Bay City is a community that fosters future economic growth, strives to deliver superior municipal services, invests in quality of life initiatives and is the gateway to the great outdoors. We encourage access to our unique historical and eco-cultural resources while maintaining our small-town Texas charm.

*Councilman Marceaux*

### APPROVAL OF AGENDA

### PUBLIC COMMENTS

State Law prohibits any deliberation of or decisions regarding items presented in public comments. City Council may only make a statement of specific factual information given in

response to the inquiry; recite an existing policy; or request staff places the item on an agenda for a subsequent meeting.

### **CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL**

- 1. One year contract extension between the City of Bay City, Texas and EPIC Aviation, LLC, pursuant to the terms of the original agreement executed January 1, 2015.**

### **REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL**

- 2. Discussion ~ Discuss, consider, and/or take action regarding the Empowerment For Exceeding Together (E4E2) lease on 2320 Avenue K. Robert K. Nelson, Mayor**
- 3. Agreement ~ discuss, consider, and/or approve an Interlocal Agreement between the City of Bay City and Matagorda County regarding the Bay City Library. Samantha Denbow, Library Director**
- 4. Ordinance ~ Discuss, consider and/or approve an ordinance amending the personnel guidelines. Rhonda Clegg, Director of Human Resources**
- 5. Ordinance ~ Discuss, consider and/or approve an ordinance of the City of Bay City, Texas, revising the fee schedule attached hereto as Exhibit "A" and labeled "Appendix B" to be added to the Code of Ordinances of the City of Bay City, Texas; adopting Aviation fees and charges and consolidating those fees and charges for convenience; providing for repeal; providing for ratification; providing for penalty; providing for severability; and providing an effective date. James Mason, Airport Manager**
- 6. Report ~ Update on taxiway relocation project with TXDOT aviation and the construction on E-Row construction. James Mason, Airport Manager**
- 7. Resolution ~ Discuss, consider, and/or adopt a resolution by the City Council of the City of Bay City, Texas authorizing publication of notice of intention to issue Certificates of Obligation in connection with the receipt of financial assistance from the Texas Water Development Board through the Clean Water State Revolving Fund; and approving other matters incidental thereto. Barry Calhoun, Public Works Director**
- 8. Resolution ~ Discuss, consider, and/or adopt a resolution by the City Council of the City of Bay City, Texas authorizing publication of notice of intention to issue Certificates of Obligation in connection with the receipt of financial assistance from the Texas Water Development Board through the Drinking Water State Revolving Fund; and approving other matters incidental thereto. Barry Calhoun, Public Works Director**
- 9. Ordinance ~ Discuss, consider, and/or approve an Ordinance amending the City of Bay City, Texas Code of Ordinances, Chapter 114 "Utilities", providing rules**

**and regulations in compliance with State law for efficient and safe operations of the City's utility water and wastewater systems.**

Barry Calhoun, Public Works Director

**CLOSED / EXECUTIVE SESSION**

- 10. Pursuant to section 551.071 and 551.072 of the Texas Government Code, the City Council will deliberate the purchase, exchange, lease or value of real property (Deliberation in an Open Meeting would have a detrimental effect on the position of the Governmental Body in negotiations with a third party).**

**OPEN SESSION**

Discuss, consider and/or take action on item(s) listed in Executive/Closed Session, (if any).

**ITEMS / COMMENTS & MAYOR AND COUNCIL MEMBERS**

**ADJOURNMENT**

**AGENDA NOTICES:**

**Action by Council Authorized:** The City Council may vote and/or act upon any item within this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code Section 551.071, to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The City Attorney may appear in person, or appear in executive session by conference call in accordance with applicable state law.

**Attendance By Other Elected or Appointed Officials:** It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

**Executive Sessions Authorized:** This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to

satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

### **CERTIFICATION OF POSTING**

This is to certify that the above notice of a Regular Called Council Meeting was posted on the front window of the City Hall of the City of Bay City, Texas on **Friday, November 27, 2020 before 6:00 p.m.** Any questions concerning the above items, please contact Mayor Robert K. Nelson at (979) 245-2137.



**CITY OF BAY CITY**  
1901 FIFTH STREET  
BAY CITY, TEXAS 77414  
(979) 245-2137  
FAX: (979) 323-1626

### AGENDA ITEM SUBMISSION FORM

Any item(s) to be considered for action by the City Council, must be included on this form, and be submitted along with any supporting documentation. Completed Agenda Item Submission forms must be submitted to the City Secretary's Office no later than 4:00 p.m. on the Monday of the week prior to the Regular Council meeting.

**Requestor Name:** Mason, James **Date Submitted:** 11/13/2020  
*Last, First* *MM/DD/YYYY*

**Requestor Type :** City Staff **Meeting Date:** 11/24/2020  
*Citizen/City Staff/Council Member* *MM/DD/YYYY*

**Position Title** Airport Manager  
*For City Staff Only*

**Agenda Location:** Consent Agenda  
*(e.g.: Consent Agenda/ Discussion Item/ Public Hearing/ Executive Session/ Presentation)*

**Agenda Content:**

**ONE YEAR CONTRACT EXTENSION BETWEEN THE CITY OF BAY CITY TEXAS AND EPIC AVIATION, LLC, PURSUANT TO THE TERMS OF THE ORIGINAL AGREEMENT EXECUTED JANUARY 1, 2015.**

**Executive Summary of Item:**

EPIC Aviation LLC is requesting a one (1) year extension to the original five (5) year agreement to provide aviation fuel to the Bay City Regional Airport. The original agreement was entered into on January 1, 2015 and provides for two (2) one (1) year extensions to the agreement. EPIC Aviation provides competitive fuel pricing and good customer service. Over the last year of the contract there have been issues involving their point of sale software. EPIC Aviation has reimbursed the City for any additional cost occurred due to this and has purchased new point of sale software for all their customers. There are still some issues with the new software, however at this time I feel EPIC Aviation will be able to correct them in a timely manner. I would recommend this one-year extension at this time.

AMENDMENT NUMBER 1  
to  
AIRPORT FUEL AGREEMENT

This Amendment Number 1 ("Amendment") shall amend that certain Airport Fuel Agreement ("Agreement") dated January 1, 2015 by and between EPIC Aviation, LLC ("Vendor") and City of Bay City, Texas ("City") for the location of Bay City Regional Airport. For purposes of this Amendment, Vendor and City may from time to time hereinafter be individually referred to as a "Party" and collectively as the "Parties".

NOW, THEREFORE, as of November 13, 2020, and in consideration of the mutual covenants contained herein and other good and valuable consideration, the Parties agree as follows:

1. Capitalized Terms. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Permit.
2. Term. The Parties wish to extend the term of the Agreement for an additional one (1) year, commencing January 1, 2021 and expiring December 31, 2021.
3. Except as otherwise provided herein, during the remainder of the Term of the Permit all the terms, provisions, covenants and conditions of the Permit shall be and continue in full force and effect.

EXECUTED this 13<sup>th</sup> day of November 2020.

Accepted and agreed as stated herein:

EPIC AVIATION, LLC

CITY OF BAY CITY TEXAS

By:  \_\_\_\_\_

By: \_\_\_\_\_

Name: Mandy Richards

Name: \_\_\_\_\_

Its: Chief Financial Officer

Its: \_\_\_\_\_

Date: November 13, 2020

Date: \_\_\_\_\_

**AGREED AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY OF BAY CITY AND EMPOWERMENT FOR EXCEEDING TOGETHER**

**WHEREAS**, The City of Bay City (“the City”) owns the property located at 2320 Avenue K, Bay City, Texas (“the Premises”); and

**WHEREAS**, the City has entered a lease which allows the Premises to be used by Empowerment for Exceeding Together (“E4E2”) (“Tenant”); and

**WHEREAS**, the date of the Lease was omitted from the Lease, making the calculation of the term problematic; and

**WHEREAS**, the City wishes to authorize Tenant to sublease a portion of the premises to Literacy Volunteers of America, a non-profit organization providing services to combat illiteracy;

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained and other good and valuable consideration, it is agreed as follows:

This Lease is amended as follows and entered into effective as of this the 13<sup>th</sup> of March 2014 by and between the City of Bay City and Empowerment for Exceeding Together.

On the first page of the Lease, the section entitled “**Basic Terms**” is amended by inserting a date for the Lease:

“**Date:** February 14, 2013 ”

The “**Definitions**” section of the Lease is amended by inserting a Commencement Date:

“Commencement Date: February 14, 2013.”

The Lease is further amended by allowing for a variety of educational programs and adding a new section, numbered E(17), entitled “*Authorized Sublease*” and reading as follows:

“Notwithstanding Section B(8) of the Lease, Tenant may sublease a portion of the Premises to Literacy Volunteers of America (“Sublessee”). A sublease must address the following:

- a) Sublessee must assume responsibility for injury, loss, or damage to the Premises resulting from Sublessee’s use of the premises.
- b) The use to be one that is within the permitted uses and services to be provided at the Premises.
- c) An allocation of responsibility for utility costs.
- d) A term to coincide with the Term of the underlying lease between City and Tenant.
- e) Sublessee’s commitment to be bound by the “Clauses & Covenants” of the Lease between City and Tenant, specifically Sections A(7), A(8), B(1), B(2), B(3), B(4), B(5), B(6), B(7), and B(8).

Before executing such a sublease, Tenant agrees to submit the proposed sublease to City Council for formal approval.”

**CONTINUED CONDITIONS**

The original Lease is attached as Exhibit A, and is incorporated herein for all purposes.

All other provisions of the Lease will remain in effect as originally agreed.

**EXECUTED THIS THE \_\_\_\_\_ DAY OF MARCH, 2014.**

  
\_\_\_\_\_  
**MARK BRICKER**  
**Mayor**

  
\_\_\_\_\_  
**Authorized Representative**

## Lease

### Basic Terms

Date:

Landlord: City of Bay City

Landlord's Address: 1901 Fifth Street  
Bay City, Texas 77414

Tenant: Empowerment for Exceeding Together

Tenant's Address: 3318 Avenue D  
Bay City, Texas 77414

### Premises

Street address: 2320 Avenue K

City, state, zip: Bay City, Texas 77414

Term (months): 12 Months. Notwithstanding any provision contained herein to the contrary this Lease may be terminated by either party without cause upon 30 days written notice to the other party.

Commencement Date:

Termination Date: 365 days from commencement date. Lease shall renew annually unless terminated by either party.

Base Rent (annually): One Dollar

Security Deposit: NONE

Permitted Use: Provide Vocational skills training and educational assistance to individuals pursuing a Graduation Equivalent Diploma.

**Insurance:** Tenant shall not be required to maintain insurance under the terms of this Agreement. However, notwithstanding any provision in this Agreement to the contrary; Tenant shall be solely responsible for any injury, loss or damage to Tenant's property regardless of cause of such loss or damage.

### Definitions

"Agent" means agents, contractors, employees, licensees, and, to the extent under the control of the principal, invitees.

“Essential Services” means utility connections reasonably necessary for occupancy of the Premises for the Permitted Use.

“Injury” means (1) harm to or impairment or loss of property or its use, (2) harm to or death of a person, or (3) “personal and advertising injury” as defined in the form of liability insurance Tenant is required to maintain.

“Lienholder” means the holder of a deed of trust covering the Premises.

“Rent” means Base Rent plus any other amounts of money payable by Tenant to Landlord.

## Clauses and Covenants

### A. Tenant agrees to—

1. Lease the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.

2. Accept the Premises in their present condition “AS IS,” the Premises being currently suitable for the Permitted Use.

3. Obey (a) all laws relating to Tenant’s use, maintenance of the condition, and occupancy of the Premises and Tenant’s use of any common areas and (b) any requirements imposed by utility companies serving or insurance companies covering the Premises.

4. Obtain and pay for all utility services used by Tenant and not provided by Landlord.

5. Repair, replace, and maintain any part of the Premises that Landlord is not obligated to repair, replace, or maintain, normal wear excepted.

6. Submit in writing to Landlord any request for repairs, replacement, and maintenance that are the obligations of Landlord.

7. Vacate the Premises on the last day of the Term.

8. INDEMNIFY, DEFEND, AND HOLD LANDLORD AND LIENHOLDER, AND THEIR RESPECTIVE AGENTS, HARMLESS FROM ANY INJURY (AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY’S FEES AND OTHER FEES AND COURT AND OTHER COSTS) OCCURRING IN ANY PORTION OF THE PREMISES. **THE INDEMNITY CONTAINED IN THIS PARAGRAPH (a) IS INDEPENDENT OF TENANT’S INSURANCE, (b) WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES OR DAMAGES PAID UNDER THE WORKERS’ COMPENSATION ACT OR SIMILAR EMPLOYEE BENEFIT ACTS, (c) WILL SURVIVE THE END OF THE TERM, AND (d)**

**WILL APPLY EVEN IF AN INJURY IS CAUSE IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LANDLORD BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD AND LIENHOLDER AND THEIR RESPECTIVE AGENTS.**

**B. Tenant agrees not to—**

1. Use the Premises for any purpose other than the Permitted Use.
2. Create a nuisance.
3. Permit any waste.
4. Use the Premises in any way that would increase insurance premiums or void insurance on the Premises.
5. Change Landlord's lock system.
6. Alter the Premises.
7. Allow a lien to be placed on the Premises.
8. Assign this lease or sublease any portion of the Premises without Landlord's written consent.

**C. Landlord agrees to—**

1. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.
2. Obey all laws relating to Landlord's operation of the Premises.
3. Provide the Essential Services.
4. Repair, replace, and maintain the (a) roof, (b) foundation, and (c) structural soundness of the exterior walls, excluding windows and doors.

**D. Landlord agrees not to—**

1. Interfere with Tenant's possession of the Premises as long as Tenant is not in default.
2. Unreasonably withhold consent to a proposed assignment or sublease.

**E. Landlord and Tenant agree to the following:**

1. *Alterations.* Any physical additions or improvements to the Premises made by Tenant will become the property of Landlord. Landlord may require that Tenant, at the end of the Term and at Tenant's expense, remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear excepted.

2. *Release of Claims/Subrogation.* LANDLORD AND TENANT RELEASE EACH OTHER AND LIENHOLDER, AND THEIR RESPECTIVE AGENTS, FROM ALL CLAIMS OR LIABILITIES FOR DAMAGE TO THE PREMISES, DAMAGE TO OR LOSS OF PERSONAL PROPERTY WITHIN THE PREMISES, AND LOSS OF BUSINESS OR REVENUES THAT ARE COVERED BY THE RELEASING PARTY'S PROPERTY INSURANCE OR THAT WOULD HAVE BEEN COVERED BY THE REQUIRED INSURANCE IF THE PARTY FAILS TO MAINTAIN THE PROPERTY COVERAGES REQUIRED BY THIS LEASE. THE PARTY INCURRING THE DAMAGE OR LOSS WILL BE RESPONSIBLE FOR ANY DEDUCTIBLE OR SELF-INSURED RETENTION UNDER ITS PROPERTY INSURANCE. LANDLORD AND TENANT WILL NOTIFY THE ISSUING PROPERTY INSURANCE COMPANIES OF THE RELEASE SET FORTH IN THIS PARAGRAPH AND WILL HAVE THE PROPERTY INSURANCE POLICIES ENDORSED, IF NECESSARY, TO PREVENT INVALIDATION OF COVERAGE. THIS RELEASE WILL NOT APPLY IF IT INVALIDATES THE PROPERTY INSURANCE COVERAGE OF THE RELEASING PARTY. **THE RELEASE IN THIS PARAGRAPH WILL APPLY EVEN IF THE DAMAGE OR LOSS IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF THE RELEASED PARTY OR ITS AGENTS BUT WILL NOT APPLY TO THE EXTENT THE DAMAGE OR LOSS IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE RELEASED PARTY OR ITS AGENTS.**

3. *Default by Landlord/Events.* Defaults by Landlord are failing to comply with any provision of this lease within thirty days after written notice and failing to provide Essential Services to Tenant within ten days after written notice.

4. *Default by Landlord/Tenant's Remedies.* Tenant's remedies for Landlord's default are to sue for damages and, if Landlord does not provide an Essential Service for thirty days after default, terminate this lease.

5. *Default by Tenant/Events.* Failing to comply within ten days after written notice with any provision of this lease.

6. *Default by Tenant/Landlord's Remedies.* Landlord's remedies for Tenant's default are to (a) enter and take possession of the Premises, after which Landlord may relet.

7. *Default/Waiver/Mitigation.* It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this lease does not preclude pursuit of other remedies in this lease or provided by applicable law. Landlord and Tenant have a duty to mitigate damages.

8. *Holdover.* If Tenant does not vacate the Premises following termination of this lease, Tenant will become a tenant at will and must vacate the Premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term.

9. *Alternative Dispute Resolution.* Landlord and Tenant agree to mediate in good faith before filing a suit for damages.

10. *Attorney's Fees.* If either party retains an attorney to enforce this lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and other fees and court and other costs.

11. *Venue.* Exclusive venue is in the county in which the Premises are located.

12. *Entire Agreement.* This lease constitutes[s] the entire agreement of the parties concerning the lease of the Premises by Landlord to Tenant. There are no representations, warranties, agreements, or promises pertaining to the lease of the Premises by Landlord to Tenant that are not in this lease.

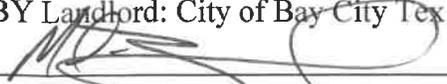
13. *Amendment of Lease.* This lease may be amended only by an instrument in writing signed by Landlord and Tenant.

14. *Limitation of Warranties.* THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.

15. *Notices.* Any notice required or permitted under this lease must be in writing. Any notice required by this lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

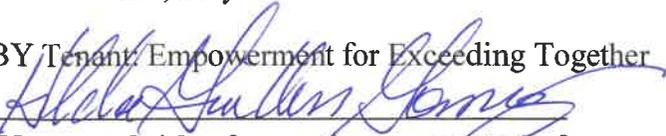
16. *Abandoned Property.* Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term.

BY Landlord: City of Bay City Texas



Mark Bricker, Mayor

BY Tenant: Empowerment for Exceeding Together



[Name and title of tenant's representative]

**~DISCUSS, CONSIDER, AND/OR APPROVE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF BAY CITY AND MATAGORDA COUNTY REGARDING THE BAY CITY PUBLIC LIBRARY.**



## **EXECUTIVE SUMMARY**

### **INTERLOCAL AGREEMENT FOR LIBRARY SERVICES**

**BACKGROUND:**

The City assumes the Management & Operation of the Bay City Public Library and the Sargent Library. Both locations benefit the County residents. In return, the County provides funding each year. The agreement is effective January 1, 2021 through December 31, 2021.

**FINANCIAL IMPLICATIONS:** County contributes \$200,000.

**IMPACT ON COMMUNITY SUSTAINABILITY:** The Bay City Library is an active and responsive part of the community by supporting citizens, local businesses & institutions through its numerous events and programs. The Library leads as a Civic Educator, Conversation Starter, Community Bridge, & Visionary.

**RECOMMENDATION:** Staff recommends City Council approve the Interlocal Agreement

**ATTACHMENTS:** Interlocal Agreement

INTERLOCAL AGREEMENT BETWEEN  
MATAGORDA COUNTY AND CITY OF BAY CITY  
REGARDING THE BAY CITY PUBLIC LIBRARY

THIS INTERLOCAL AGREEMENT (“Agreement”) is made between MATAGORDA COUNTY, having its principal place of business at 1700 7<sup>th</sup> Street, Bay City, Matagorda County, Texas 77414, referred to as “County,” and CITY OF BAY CITY, having its principal place of business at 1901 5<sup>th</sup> Street, Bay City, Matagorda County, Texas, 77414, referred to as “City.”

WITNESSETH:

WHEREAS, Chapter 791, entitled the Interlocal Cooperation Act of the Texas Government Code provides that local governments may contract with one another to increase the efficiency and effectiveness of their governmental services and functions; and

WHEREAS, County and City are separate governmental entities; and

WHEREAS, County and City find it mutually beneficial and in the public interest for County to participate with an established library to provide library services; and

WHEREAS, City has the necessary personnel and is willing to assume the management and operation of the Bay City Public Library; and

WHEREAS, the parties desire to undertake a governmental function or service in which the parties do not have any pecuniary purpose, and there is no profit motive; and the only purpose of the contract is to further the public good; and

WHEREAS, County has authority under Section 323.011 of the Texas Local Government Code to contract with an established library to provide library services within the county.

NOW, THEREFORE, County and City, in consideration of the mutual promises and covenants contained in this Agreement, do agree as follows with respect to County’s contribution to the operation of the Bay City Public Library:

ARTICLE 1. LEGAL AUTHORITY

Each party warrants that it possesses adequate legal authority to enter into this Agreement. The governing body of each party has authorized its respective signatory officials to enter into this Agreement and bind each party to the terms of this Agreement and any subsequent amendments thereto.

ARTICLE 2. APPLICABLE LAW

County and City agree to conduct all activities under this Agreement in accordance with all applicable rules, regulations, ordinances and laws in effect or promulgated during the term of this Agreement.

ARTICLE 3. WHOLE AGREEMENT

This Agreement, as provided herein, constitutes the complete agreement between the parties hereto, and supersedes any and all oral and written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

ARTICLE 4. TERM OF AGREEMENT

This Agreement is effective for the term beginning January 1, 2021, through December 31, 2021. The term may be extended for an additional term or terms upon the Agreement of the parties which agreement shall be in writing signed by the parties on or before the last day of the term or any extensions thereof.

ARTICLE 5. SCOPE OF AGREEMENT

This Agreement covers the annual amount that County will pay to the City out of the general fund of the county to provide library services at the Bay City Public Library system.

ARTICLE 6. PAYMENTS FROM CURRENT REVENUES

County shall make all payments pursuant to this agreement from current revenues available to County in accordance with § 791.011 of the Texas Government Code.

ARTICLE 7. CONTROL, DIRECTION AND MANAGEMENT

By entering into this Agreement, the parties do not intend to form a joint enterprise.

At no time will the parties have an equal or mutual right of control. At all times City reserves its superior right to control the direction and management of the enterprise solely for liability purposes under this Agreement and/or solely by virtue of the City’s undertaking the responsibility of managing the Bay City Public Library.

ARTICLE 8. GENERAL DUTIES OF COUNTY AND CITY

County shall provide funding in the amount of \$200,000.00 in 2021, subject to budget approval of the Matagorda County Commissioners Court. County’s involvement in the library is

limited to providing funding. County shall have no responsibility for performing any other duties or providing any other resources except where noted in Article 9.

Payment will be made by County in equal quarterly payments made on or before January 31<sup>st</sup>, April 30<sup>th</sup>, July 31<sup>st</sup> and October 31<sup>st</sup>, and mailed to City at the address provided below.

This obligation is contingent on the City managing and operating the library. In the event the City does not manage and operate the library, then County will cease contributions immediately.

The City’s point of contact shall be the Library Director of the Bay City Public Library system.

The County’s point of contact shall be Kent Pollard, Commissioner Pct. 2.

ARTICLE 9. DUTIES OF COUNTY AND CITY FOR SARGENT BRANCH

County shall provide space for the Sargent Library within the VFW building, 20305 FM 457 Hwy, Bay City, TX 77414, owned by County. The space allocated to the Sargent Library is reflected in the diagram attached as Exhibit.

County shall manage any building projects including, but not limited to, conducting, coordinating, and scheduling project activities and assuring quality control.

County shall maintain documentation and records for the improvements and provide them to the City upon request.

County shall conduct any renovations according to the designs prepared and approved by the City. If an issue arises with the design, the County shall obtain the City's approval for changes.

County shall be responsible for the maintenance and repairs of the building, and County owned equipment The County will provide the following services: HVAC, water, parking, pest control, landscaping, and trash disposal on a routine basis. Maintenance request will be submitted in writing by mail or email to the County’s assigned point of contact. Repairs shall be completed within a reasonably expected time. If repairs will require more than 30 days, the City’s point of contact will be notified in writing.

County will provide property coverage for the building and County contents. The County will not be liable for any loss, damage or theft of any property of the City or others kept or stored in the library space.

City shall be responsible for the cost of any repairs to the premises or damages caused by misuse or negligence of the library employees or their guests or invitees. Damages to the building and County property caused by misuse or negligence of the public will be the responsibility of the County.

City shall be responsible for maintaining their area neat and orderly. City shall be responsible for the electricity on the library space and any damage to City property caused by patrons of the Library.

ARTICLE 10. CHANGES AND AMENDMENTS

Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in federal and state law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulations. The parties hereto may alter or amend this Agreement. Such amendments that are mutually agreed upon by City and County in writing shall be incorporated into this Agreement.

ARTICLE 11. SEVERABILITY

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

ARTICLE 12. TITLES NOT RESTRICTIVE

The titles assigned to the various sections of this Agreement are for convenience only and are generally descriptive of the matters following. Titles shall not be considered restrictive of the subject matter of any section or part of this Agreement.

ARTICLE 13. VENUE

Venue and jurisdiction of any suit, or cause of action arising under or in connection with this Agreement shall lie exclusively in Matagorda County, Texas.

ARTICLE 14. NOTICES

All notices required by this Agreement shall be delivered in person or by United States mail, postage prepaid, and shall be addressed:

To Matagorda County:

Matagorda County Attn:  
County Judge  
1700 7<sup>th</sup> Street, Room 301 Bay  
City, Texas 77414

To Bay City:

City of Bay City

Attn: Mayor 1901  
5<sup>th</sup> Street  
Bay City, Texas 77414

AGREED to and ADOPTED by the Commissioners Court of Matagorda Texas on the \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_.

ATTEST:

MATAGORDA COUNTY

\_\_\_\_\_  
STEPHANIE WURTZ  
COUNTY CLERK

\_\_\_\_\_  
By: NATE MCDONALD  
COUNTY JUDGE

AGREED to and ADOPTED by governing body of the City of Bay City on the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_\_.

ATTEST:

CITY OF BAY CITY

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
By: ROBERT K NELSON  
MAYOR



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BAY CITY, TEXAS, AMENDING ORDINANCE NO. 1649, BY AMENDING THE EMPLOYEE GUIDELINES FOR CITY EMPLOYEES; PROVIDING FOR PUBLICATION OF AMENDED EMPLOYEE GUIDELINES; PROVIDING FOR A CUMULATIVE AND CONFLICT CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the current edition of the City of Bay City Employee Guidelines for City Employees (hereinafter “Employee Guidelines”) was adopted on June 9, 2020, by passage of Ordinance No. 1649; and

**WHEREAS**, the Council finds it appropriate to revise the Employee Guidelines:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF BAY CITY, TEXAS, THAT:**

**I.  
EMPLOYEE GUIDELINES AMENDED**

The Employee Guidelines adopted on June 9, 2020, by passage of Ordinance No. 1643 is hereby amended by replacing same in its entirety with the language set out in Exhibit “A” attached hereto and incorporated herein for all purposes.

**II.  
PUBLICATION**

The Director of Human Resources is hereby authorized and directed to revise the publication of the “City of Bay City Employee Guidelines for City Employees” to reflect the revisions adopted herein.

**III.  
CUMULATIVE & CONFLICTS**

This Ordinance shall be cumulative of all provisions of Ordinances of the City of Bay City, Texas, except where the provisions of the Ordinances are in direct conflict with the provisions of such Ordinances, in which event the conflicting provisions of such Ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

**IV.  
SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**V.  
EFFECTIVE DATE**

This Ordinance shall become effective immediately upon passage.

**PASSED AND APPROVED on this the 1<sup>st</sup> day of December 2020.**

---

Robert K. Nelson, Mayor  
City of Bay City

**ATTEST:**

**APPROVED AS TO FORM:**

---

City Secretary  
City of Bay City

---

Anne Marie Odefey, City Attorney

<u>Council Member:</u>	<u>Voted Aye</u>	<u>Voted No</u>	<u>Absent</u>
Julie L. Estlinbaum	_____	_____	_____
Bill Cornman	_____	_____	_____
Jason Childers	_____	_____	_____
Becca Sitz	_____	_____	_____
Brent Marceaux	_____	_____	_____
Robert K. Nelson	_____	_____	_____

\_\_\_\_\_  
Robert K. Nelson, Mayor,  
City of Bay City

**ATTEST:**

\_\_\_\_\_  
City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Anne Marie Odefey, City Attorney

**EXHIBIT "A"**  
**EMPLOYEE GUIDELINES AS ADOPTED**



## Personnel Policy Amendments

### **MINOR AMENDMENTS:**

1. Corrected the subsection numbering in Section 1.9.
2. Page 44, Section 4.1 – Categories of Employment.
  - a. Removed “We Saw You Award” from the categories.
    - i. All employees are eligible for this recognition.
3. Page 50, Section 5.5 – On-Call Pay.
  - a. Deleted the sentence that states exempt employees are not eligible.
    - i. This is clean up from a previous amendment. Exempt employees are eligible and have been a for a period of time.
4. Page 84, Section 8.8 – Bereavement Leave.
  - a. Added the sentence referring employees back to the Kinship chart.

### **MAJOR AMENDMENTS**

1. Page 34, Section 3.1.1 – Methods of Recruitment.
  - a. Added language that would allow for recruitment incentives with the approval of the City Manager and annual review.
    - i. Within the Police Department, as well as other City Departments recruiting can be challenging. This policy will allow for the City to create and offer different incentives, with the City Manager’s, approval when the City is going through a difficult recruitment phase.
2. Page 49, Section 5.2 – Promotions.
  - a. Added language that would allow Department Director’s more administrative control to adjust the salary of a newly promoted employee.
    - i. We are dealing with compression issues within many of our departments. The current policy does not afford the opportunity to lessen the amount of compression, and in some cases does not provide an adequate increase where an employee can see a difference for the additional duties they have accepted.
3. Page 104, Section 11.2 – Use of Tools, Equipment, Property and Vehicles
  - a. Added the language that would require an employee to reimburse the City if they damage or lose equipment because of negligence.
4. Page 118, Section 13.2.5 – Grievances Relating to Suspension, Demotion and/or Termination.
  - a. Removed Section.
    - i. Per the Charter (Section 7.05(f)) and recent change in government, the City Manager has the final say regarding these types of disciplinary actions.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF BAY CITY, TEXAS, REVISING THE FEE SCHEDULE LABELED “APPENDIX B” IN THE CODE OF ORDINANCES OF THE CITY OF BAY CITY, TEXAS; ADOPTING NEW FEES FOR CHAPTER 18 AVIATION; PROVIDING FOR REPEAL; PROVIDING FOR RATIFICATION; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Bay City, Texas, (“City”) has adopted numerous ordinances that provide for fees and charges for various city services; and

**WHEREAS**, the City has determined that it would be convenient to consolidate those fees and charges into one ordinance that can be reviewed and amended as needed from time to time; and

**WHEREAS**, the City has determined that the fees and charges specified herein are reasonable, necessary, fair, and designed to fund the various activities to which they pertain; and

**WHEREAS**, the City has determined that the fees and charges specified herein will promote the health, safety, and welfare of City;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS:**

**Section 1.** The facts and recitations contained in the preamble to this Ordinance are true and correct and incorporated herein for all purposes.

**Section 2.** *Fees Schedule adopted.* The City hereby adopts the Fee Schedule for Chapter 18 attached hereto as Exhibit “A” and labeled “Appendix B” in the City of Bay City, Texas, Code of Ordinances and imposes the fees and charges set forth therein upon the various services to which they pertain. These fees and charges shall be collected by the City in accordance with the various City ordinances that more particularly describe each such fee or charge.

**Section 3.** *Repeal.* All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

**Section 4.** *Ratification.* The City ratifies any past action taken regarding charging of fees.

**Section 5.** *Penalty.* Any person who violates or causes, allows, or permits another to violate any provision of this ordinance, rule, or police regulation of the city shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine or penalty not to exceed five hundred dollars (\$500.00). Each occurrence of any violation of this ordinance, rule, or police regulation shall constitute a separate offense. Each day on which any such violation of this ordinance, rule, or police regulation occurs shall constitute a separate offense.

**Section 6.** *Severability.* In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Bay City, Texas, declares that it would

have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

**Section 7.** *Effective Date.* This Ordinance shall be effective on January 1, 2021 and may be published as required by law.

**PASSED, APPROVED, AND ADOPTED** on this 1st day of December 2020.

\_\_\_\_\_  
Robert K. Nelson, Mayor  
City of Bay City

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeanna Thompson, City Secretary  
City of Bay City

\_\_\_\_\_  
Anne Marie Odefey, City Attorney

<b><u>Council Member:</u></b>	<b><u>Voted Aye</u></b>	<b><u>Voted No</u></b>	<b><u>Absent</u></b>
Robert K. Nelson	_____	_____	_____
Mayor			
Floyce Brown	_____	_____	_____
Jim Folse	_____	_____	_____
Jason Childers	_____	_____	_____
Mayor Pro Tem			
Becca Sitz	_____	_____	_____
Brent Marceaux	_____	_____	_____

## APPENDIX B - FEE SCHEDULE

Section Number	Subject	Fee Amount
<b>Chapter 18 - Aviation</b>		
18-6(a)	Aerial Advertising - City limits permit	\$15.00 per flight
18-6(a)	Aerial Advertising - City limits, 7-day permit	\$25.00
18-	Aerial Applicator Operating Permit	\$500.00 per aircraft (30-day period) \$250.00 for each additional aircraft
18-135	Fuel Flowage Fee	\$0.15 per gallon
<i><del>Daily-Nightly</del> Tie Down Fees</i>		
18-	Single Engine	\$10.00
18-	Twin Engine	\$20.00
18-	Turbo/Jet Engine	\$30.00
<a href="#">First night free with fuel purchase</a>		
<i>Monthly Tie Down Fees</i>		
<del>First calendar day free WITH fuel purchase. Tie down fees are calculated on the calendar day. (Example: "Calendar Day" 1 minute to 24 hours equals 1 calendar day.)</del>		
18-	Single Engine	\$100.00
18-	Twin Engine	\$200.00
18-	Turbo/Jet Engine	<del>\$300.00</del> <a href="#">\$350.00</a>
<a href="#">18-</a>	<a href="#">Turbo/Jet Engine 12,500 lbs. and greater</a>	<a href="#">\$400.00</a>
No discount offered with purchase of fuel. Tie down fees are calculated on the calendar day. <a href="#">(Example:</a>		

<a href="#">"Calendar Day" 1 minute to 24 hours equals 1 calendar day)</a>		
<i>Main Hangar Daily Fees</i>		
18-	Single Engine	\$25.00
18-	Twin Engine	\$50.00
18-	Turbo <b>prop</b> / <del>Jet Engine</del>	\$100.00
<del>18-</del>	<del>Jet Engine</del>	<del>\$150.00</del>
<del>18-</del>	<del>T Hangar Monthly Fee</del>	<del>\$185.00 per month with a \$185.00 Deposit</del>
<del>18-</del>	<del>End Cap Monthly Fee</del>	<del>\$55.00 per month</del>
<a href="#">No discount offered with purchase of fuel. Fees are calculated on the calendar day.</a>		
<i>Main Hangar Monthly Fees</i>		
18-	Single Engine	\$225.00
18-	Twin Engine	\$300.00
18-	Turbo Prop	<del>\$350.00</del> \$400.00
18-	Jet Engine	<del>\$450.00</del> \$500.00
18-	Deposit	Equal to one month's rent
<a href="#">T-Hanger Monthly Fees</a>		
<del>18-</del>	<del>T-Hanger</del>	<del>\$200.00</del>
<del>18-</del>	<del>T-Hanger Suite</del>	<del>\$245.00</del>
<del>18-</del>	<del>T-Hanger Bi-fold doors and 1,000 Sf</del>	<del>\$225.00</del>
<del>18-</del>	<del>T-Hanger Bi-Fold doors and 1,210 Sf</del>	<del>\$250.00</del>

18-	<a href="#">T-Hanger Bi-fold doors and 1,450 Sf</a>	<a href="#">\$260.00</a>
18-	<a href="#">Deposit</a>	<a href="#">Equal to one month's rent</a>
18-	<a href="#">End-Cap monthly rate</a>	<a href="#">\$70.00</a>
18-	<a href="#">Late Fee assessed for all payments not received by the 11<sup>th</sup> of each month</a>	<a href="#">\$50.00</a>
<i>Ramp Fees</i>		
18-	Single Engine	\$10.00
18-	Twin Engine	\$20.00
18-	Turbo/Jet Engine	<del>\$30.00</del> <a href="#">\$50.00</a>
Customers using our ramp to drop off or pick up passengers/ <a href="#">cargo</a> and purchasing aviation fuel are not charged a ramp use fee. <del>All others will be charged a ramp fee on the calendar day.</del>		
18-	Courtesy Vehicle for Fly-in visitors w/aviation fuel purchase	First 2 hours: No charge; then \$15.00/hour
	Courtesy Vehicle for Fly-in visitors w/out aviation fuel purchase	\$20.00/hour
	(a) Fly in visitors with no fuel purchase: A surcharge of \$20.00 will be charged regardless of how much fuel was used in the vehicle, if the vehicle is returned without the fuel being replaced.	
	(b) The overnight use of the vehicle may be approved at the cost of a flat rate fee of \$100.00 (after 5:00 p.m. until 8:00 a.m.). The charges as stated above will then apply between the hours of 8:00 a.m. to 5:00 p.m.	
<a href="#">After Hour's Services – Customers requesting services or assistance after business hours, weekends and holidays</a>		
18-	<a href="#">Call Out Fee</a>	\$55.00/hour (2-hour minimum)
18-	<a href="#">Overtime Fee</a>	<a href="#">\$55.00/hour</a>

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		<a href="#">Customers requesting services that require employees to work past business hours.</a>
18	Fuel Service Fees	.40 cents per gallon of fuel
18	Fuel additive	.05 cents per gallon plus posted fuel price
<a href="#">18</a>	<a href="#">Fueling Fee for private self-fuel delivery</a>	<a href="#">.15 cents per gallon</a>
<a href="#">18</a>	<a href="#">Catering Fee</a>	<a href="#">Based on the size of the order, time spent coordinating the order and delivery.</a>
<a href="#">18</a>	<a href="#">Office/Terminal lease</a>	<a href="#">\$2.50 - \$15.00 Sf per year</a>
<a href="#">Ground Lease</a>		
<a href="#">18</a>	<a href="#">Aviation related land – Improved</a>	<a href="#">.15 cents Sf per year</a>
<a href="#">18</a>	<a href="#">Aviation related land – Unimproved</a>	<a href="#">.10 cents Sf per year</a>
<a href="#">18</a>	<a href="#">Non-aviation related land</a>	<a href="#">.25 cents Sf per year</a>

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# Airport Projects Update

As of November 18, 2020

## T-Hangar Row E Construction

Construction is underway, contractor has been on-site since October 26. Erosion controls have been installed and site has been stripped. Construction of the building foundation is underway with excavation and fill of select material as a base for the building foundation. Formwork and installation of reinforcing steel is next. Concrete pour of the slab is scheduled for the week of November 30.

## Photos of the work



Figure 1- Installation of Filter Dam



Figure 2 - Stripping topsoil for grading



Figure 3- Folding Sand into Existing Fill



Figure 4 - Select fill mixing on the building foundation

## Rates and Charges Study / Update of Airport Fees

Analysis of existing airport rates and charges has been completed and provide to the airport as guidance for setting new fees. The analysis also include documenting fee analysis for future needs like ground leases and Customs and Border Patrol services should the airport initiate agreements to accept international flights.

### Taxiway A Design

Survey of the airfield is underway, while field investigation of the soil for the relocated taxiway was completed on October 10. Preliminary Engineering is underway, with the engineering report that will define the project scope and estimate the project construction cost scheduled for completion in early March. An exhibit showing possible exit taxiway locations is on display at the airport to gather stakeholder input on preferences of the proposed configuration.

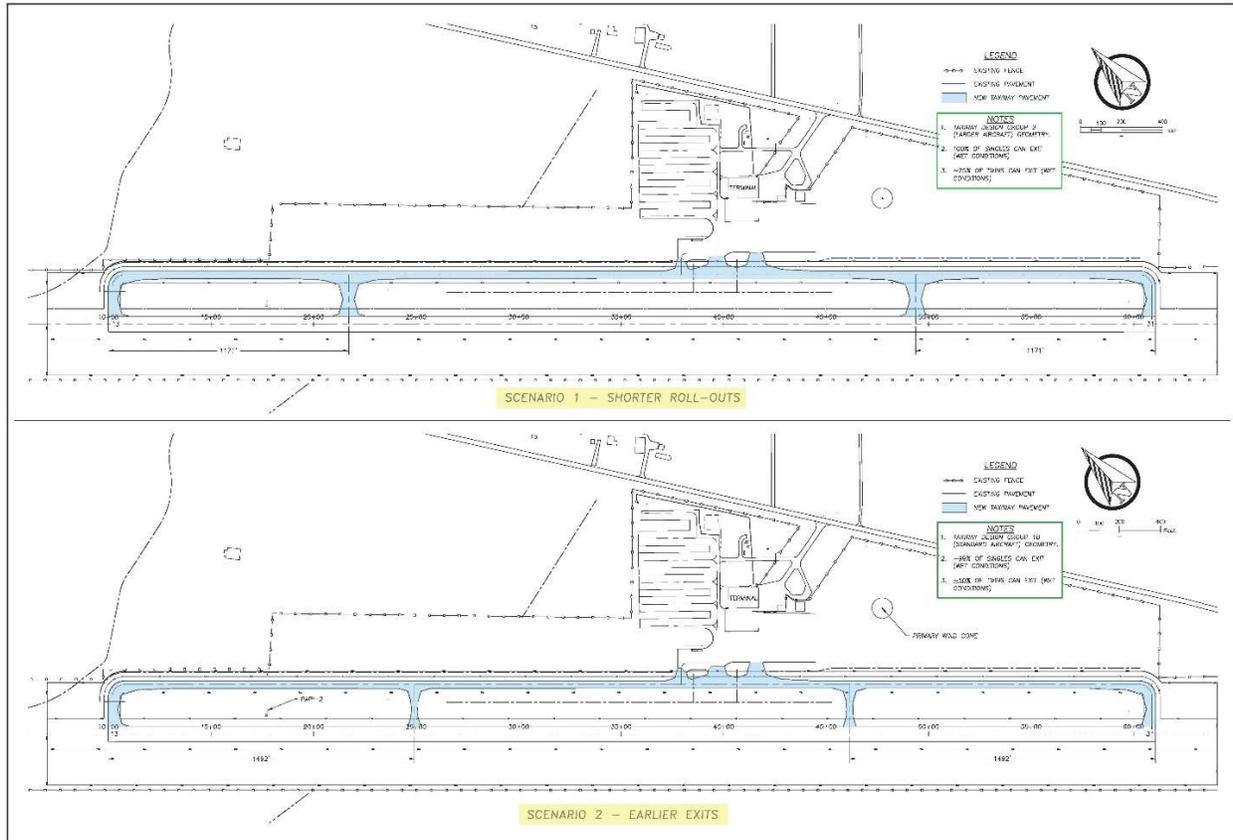


Figure 5 - Exit taxiway optional geometry



**CITY OF BAY CITY**  
 1901 FIFTH STREET  
 BAY CITY, TEXAS 77414  
 (979) 245-2137  
 FAX: (979) 323-1626

## AGENDA ITEM SUBMISSION FORM

Any item(s) to be considered for action by the City Council, must be included on this form, and be submitted along with any supporting documentation. Completed Agenda Item Submission forms must be submitted to the City Secretary's Office no later than 4:00 p.m. on the Monday of the week prior to the Regular Council meeting.

---

**Requestor Name:** Mason, James **Date Submitted:** 11/13/2020  
*Last, First* *MM/DD/YYYY*

**Requestor Type :** City Staff **Meeting Date:** 12/01/2020  
*Citizen/City Staff/Council Member* *MM/DD/YYYY*

**Position Title** Airport Manager  
*For City Staff Only*

**Agenda Location:** Discussion Item  
*(e.g.: Consent Agenda/ Discussion Item/ Public Hearing/ Executive Session/ Presentation)*

### Agenda Content:

---

**UPDATE ON TAXIWAY RELOCATION PROJECT WITH TXDOT AVIATION AND THE CONSTRUCTION ON E-ROW CONSTRUCTION.**

### Executive Summary of Item:

---

Update on the progress of the taxiway relocation project and the construction on E-Row t-hangars.



**CITY OF BAY CITY**  
 1901 FIFTH STREET  
 BAY CITY, TEXAS 77414  
 (979) 245-2137  
 FAX: (979) 323-1626

## AGENDA ITEM SUBMISSION FORM

Any item(s) to be considered for action by the City Council, must be included on this form, and be submitted along with any supporting documentation. Completed Agenda Item Submission forms must be submitted to the City Secretary's Office no later than 4:00 p.m. on the Monday of the week prior to the Regular Council meeting.

**Requestor Name:** Calhoun, Barry **Date Submitted:** 11/20/2020  
*Last, First* *MM/DD/YYYY*

**Requestor Type :** City Staff **Meeting Date:** 12/01/2020  
*Citizen/City Staff/Council Member* *MM/DD/YYYY*

**Position Title** Director of Public Works  
*For City Staff Only*

**Agenda Location:** Resolution  
*(e.g.: Consent Agenda/ Discussion Item/ Public Hearing/ Executive Session/ Presentation)*

### Agenda Content:

**DISCUSS, CONSIDER, AND/OR ADOPT A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION IN CONNECTION WITH THE RECEIPT OF FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD THROUGH THE CLEAN WATER STATE REVOLVING FUND; AND APPROVING OTHER MATTERS INCIDENTAL THERETO.**

### Executive Summary of Item:

The Clean Water State Revolving Fund, authorized by the Clean Water Act, provides low-cost financial assistance for planning, acquisition, design, and construction of wastewater, reuse, and stormwater infrastructure. Eligible applicants for the CWSRF include cities, counties, districts, river authorities, designated management agencies, authorized Indian tribal organizations, and public and private entities proposing nonpoint source or estuary management projects

The City of Bay City has submitted an application to the Texas Water Development Board (TWDB) to assist with obtaining funding in an effort to make critical improvements to the City's wastewater systems. These improvements will include upgrades to our existing wastewater treatment plant, wastewater lift stations, and wastewater collection system.

The Public Works Department along with Garver Engineering has been working together to analyze the total efficiency of the City's wastewater system to determine what improvements are necessary. Once collection of all the necessary supporting documentation is complete, we will proceed with submitting the application to the TWDB for approval of funding assistance. Once the application is received by TWDB, it will be reviewed over a 90-day period at which time the City will receive notification of their decision. The amount the City is applying for is \$36,400,000.

It is staff's recommendation to adopt this resolution.



RESOLUTION NO. R-2020-\_\_

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION IN CONNECTION WITH THE RECEIPT OF FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD THROUGH THE CLEAN WATER STATE REVOLVING FUND; AND APPROVING OTHER MATTERS INCIDENTAL THERETO

THE STATE OF TEXAS §  
COUNTY OF MATAGORDA §  
CITY OF BAY CITY §

WHEREAS, the City of Bay City, Texas (the “City”) is pursuing financial assistance from the Texas Water Development Board (the “TWDB”) under the Clean Water State Revolving Fund; and

WHEREAS, the City Council of the City (the “City Council”) deems it advisable to issue certificates of obligation (the “Certificates”) of the City in accordance with the notice hereinafter set forth in order to evidence a loan from the TWDB; and

WHEREAS, it is hereby found and determined that the meeting at which this resolution is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS THAT:

Section 1. The findings, determinations, definitions and recitations set out in the preamble to this resolution are found to be true and correct and are hereby adopted by City Council and made a part hereof for all purposes.

Section 2. The City Secretary is hereby authorized and directed to cause to be published in the manner required by law and in substantially the form attached hereto as Exhibit A, a notice of the City’s intention to issue the Certificates (the “Notice”).

Section 3. The Notice shall be published once a week for two (2) consecutive weeks in a newspaper that is of general circulation in the City, the date of the first publication to be at least forty-six (46) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates. In addition, the Notice shall be posted continuously on the City’s website for at least forty-five (45) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates.

Section 4. For the purposes of the Notice, the City hereby designates as self-supporting those public securities listed in the attached Exhibit B, the debt service on which the City currently pays from sources other than ad valorem tax collections. The City plans to continue to pay these

public securities based on this practice; however, there is no guarantee this practice will continue in future years.

Section 5. For purposes of section 1.150-2(d) of the Treasury Regulations, to the extent that an official intent to reimburse has not previously been adopted by the City, this Notice serves as the City’s official declaration of intent to reimburse itself from proceeds of the Certificates in the maximum principal amount and for expenditures paid in connection with the projects, each as set forth in Exhibit A hereof. Any such reimbursement will only be made (i) for an original expenditure paid no earlier than 60 days prior to the date hereof and (ii) not later than 18 months after the later of (A) the date the original expenditure is paid or (B) the date the project to which such expenditure relates is placed in service or abandoned, but in to event more than three years after the original expenditure is paid.

Section 6. The City hereby authorizes City’s financial advisor, USCA Municipal Advisors, LLC, bond counsel, Bracewell LLP, and engineer, Garver LLC, to proceed with the necessary arrangements for the sale of the Certificates and the receipt of financial assistance from the TWDB.

Section 7. The Mayor, City Manager, Finance Director, Director of Public Works, City Secretary, and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this resolution.

Section 8. This resolution shall take effect immediately upon its passage.

Section 9. The notice and agenda relating to this meeting and heretofore posted by the City Secretary, and the posting thereof, are hereby authorized, approved, and ratified.

*[Execution Page to Follow]*

PASSED AND APPROVED on this the 1st day of December, 2020 by the City Council of the City of Bay City, Texas.

---

The Honorable Robert K. Nelson, Mayor,  
City of Bay City, Texas

ATTEST:

---

Jeanna Thompson, City Secretary  
City of Bay City, Texas

[SEAL]

APPROVED AS TO FORM:

---

Anne Marie Odefey, City Attorney  
ROBERTS, ODEFEY, WITTE & WALL,  
LLP  
City of Bay City, Texas

EXHIBIT ANOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Bay City, Texas (the “City”), will meet at City Hall, 1901 5<sup>th</sup> Street, Bay City, Texas, 77414 at 6:00 p.m. on the 26th of January, 2021, which is the time and place tentatively set for the passage of an ordinance and such other action as may be deemed necessary to authorize the issuance of the City’s Tax and Revenue Certificates of Obligation, Series 2021A (CWSRF), in the maximum aggregate principal amount not to exceed \$\_\_\_\_\_, payable from ad valorem taxes and from a pledge of a subordinate lien on the surplus revenues of the City’s water and sewer system, bearing interest at any rate or rates not to exceed the maximum interest rate now or hereafter authorized by law, as shall be determined within the discretion of the City Council of the City at the time of issuance of the certificates of obligation, and maturing over a period not to exceed forty (40) years from the date of issuance, for the purposes of evidencing the indebtedness of the City for all or any part of the costs associated with improvements to the City’s sewer system, including (i) the design, construction, rehabilitation, replacement, and equipment of the City’s wastewater treatment plant and lift stations, (ii) the design, construction, rehabilitation and equipment of sewer lines, and (iii) the costs of professional services related thereto. The Certificates are being issued to evidence the receipt of financial assistance from the Texas Water Development Board under the Clean Water State Revolving Fund. The estimated combined principal and interest required to pay the Certificates on time and in full is \$\_\_\_\_\_. Such estimate is provided for illustrative purposes only, and is based on an assumed interest rate of approximately \_\_\_\_%. Market conditions affecting interest rates vary based on a number of factors beyond the control of the City, and the City cannot and does not guarantee a particular interest rate associated with the Certificates. As of the date of this notice, the aggregate principal amount outstanding of tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting in Resolution No. R-2020-\_\_\_, dated December 1, 2020, which resolution is available from the City upon request) is \$\_\_\_\_\_. Based on the City’s expectations, as of the date of this notice, the combined principal and interest required to pay all of the outstanding tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting) on time and in full is \$\_\_\_\_\_.

WITNESS MY HAND AND THE OFFICIAL SEAL OF THE CITY, this 1st day of December, 2020.

Jeanna Thompson  
City Secretary  
City of Bay City, Texas

EXHIBIT B  
SELF-SUPPORTING DEBT

**[\$12,536,476]**      **Total Principal Amount Designated as Self-Supporting**

The total principal amount of self-supporting debt is comprised of some or all of the debt from the following series of obligations:

**Series Designation**

---

Tax and Revenue Obligations, Series 2012

Tax and Revenue Certificates of Obligation, Series 2014

Tax and Revenue Certificates of Obligation, Series 2016

Tax and Revenue Certificates of Obligation, Series 2020

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS           §  
COUNTY OF MATAGORDA       §

I, the undersigned officer of the City Council of the City of Bay City, Texas, hereby certify as follows:

1.       The City Council of the City of Bay City, Texas, convened in a regular meeting on the 1st day of December, 2020, at the regular meeting place thereof, within said City, and the roll was called of the duly constituted officers and members of said City Council, to wit:

- |                   |   |
|-------------------|---|
| Robert K. Nelson  | Mayor   |
| Floyce Brown      | Council Member, Position No. 1                    |
| Jim Folse         | Council Member, Position No. 2                    |
| Brent Marceau     | Council Member, Position No. 3                    |
| Becca Sitz        | Council Member, Position No. 4                    |
| Jason W. Childers | Mayor Pro Temp and Council Member, Position No. 5 |

and all of said persons were present, except the following absentee(s): \_\_\_\_\_, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written

RESOLUTION NO. R-2020-\_\_

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION IN CONNECTION WITH THE RECEIPT OF FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD THROUGH THE CLEAN WATER STATE REVOLVING FUND; AND APPROVING OTHER MATTERS INCIDENTAL THERETO

was duly introduced for the consideration of said City Council. It was then duly moved and seconded that said resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of said resolution, prevailed and carried by the following vote:

\_\_\_\_\_ Member(s) of City Council shown present voted "Aye."

\_\_\_\_\_ Member(s) of City Council shown present voted "No."

2.       A true, full and correct copy of the aforesaid resolution adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said resolution has been duly recorded in said City Council's minutes of said meeting; that the above

and foregoing paragraph is a true, full and correct excerpt from said City Council's minutes of said meeting pertaining to the adoption of said resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the date, hour, place and purpose of the aforesaid meeting, and that said resolution would be introduced and considered for adoption at said meeting, and each of said officers and members consented, in advance, to the holding of said meeting for such purpose; that said meeting was open to the public as required by law; and that public notice of the date, hour, place and subject of said meeting was given as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED this 1<sup>st</sup> day of December, 2020.

---

Jeanna Thompson, City Secretary  
City of Bay City, Texas

[SEAL]



**CITY OF BAY CITY**  
1901 FIFTH STREET  
BAY CITY, TEXAS 77414  
(979) 245-2137  
FAX: (979) 323-1626

## AGENDA ITEM SUBMISSION FORM

Any item(s) to be considered for action by the City Council, must be included on this form, and be submitted along with any supporting documentation. Completed Agenda Item Submission forms must be submitted to the City Secretary's Office no later than 4:00 p.m. on the Monday of the week prior to the Regular Council meeting.

**Requestor Name:** Calhoun, Barry **Date Submitted:** 11/20/2020  
*Last, First* *MM/DD/YYYY*

**Requestor Type :** City Staff **Meeting Date:** 12/01/2020  
*Citizen/City Staff/Council Member* *MM/DD/YYYY*

**Position Title** Director of Public Works  
*For City Staff Only*

**Agenda Location:** Resolution  
*(e.g.: Consent Agenda/ Discussion Item/ Public Hearing/ Executive Session/ Presentation)*

### Agenda Content:

**DISCUSS, CONSIDER, AND/OR ADOPT A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION IN CONNECTION WITH THE RECEIPT OF FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD THROUGH THE DRINKING WATER STATE REVOLVING FUND; AND APPROVING OTHER MATTERS INCIDENTAL THERETO.**

### Executive Summary of Item:

The Drinking Water State Revolving Fund, authorized by the Safe Drinking Water Act, provides low-cost financial assistance for planning, acquisition, design, and construction of water infrastructure. Eligible applicants for the DWSRF include publicly and privately-owned community water systems, including nonprofit water supply corporations and nonprofit, non-community public water systems.

The City of Bay City has submitted an application to the Texas Water Development Board (TWDB) to assist with obtaining funding in an effort to make critical improvements to the City's water systems. These improvements will include upgrades to our existing water plants, water distribution system and new water plants.

The Public Works Department along with Garver Engineering has been working together to analyze the total efficiency of the City's water systems to determine what improvements are necessary. Once collection of all the necessary supporting documentation is complete, we will proceed with submitting the application to the TWDB for approval of funding assistance. Once the application is received by TWDB, it will be reviewed over a 90-day period at which time the City will receive notification of their decision. The amount the City is applying for is \$20,330,000.

It is staff's recommendation to adopt this resolution.

RESOLUTION NO. R-2020-\_\_

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION IN CONNECTION WITH THE RECEIPT OF FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD THROUGH THE DRINKING WATER STATE REVOLVING FUND; AND APPROVING OTHER MATTERS INCIDENTAL THERETO

THE STATE OF TEXAS §  
COUNTY OF MATAGORDA §  
CITY OF BAY CITY §

WHEREAS, the City of Bay City, Texas (the “City”) is pursuing financial assistance from the Texas Water Development Board (the “TWDB”) under the Drinking Water State Revolving Fund; and

WHEREAS, the City Council of the City (the “City Council”) deems it advisable to issue certificates of obligation (the “Certificates”) of the City in accordance with the notice hereinafter set forth in order to evidence a loan from the TWDB; and

WHEREAS, it is hereby found and determined that the meeting at which this resolution is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS THAT:

Section 1. The findings, determinations, definitions and recitations set out in the preamble to this resolution are found to be true and correct and are hereby adopted by City Council and made a part hereof for all purposes.

Section 2. The City Secretary is hereby authorized and directed to cause to be published in the manner required by law and in substantially the form attached hereto as Exhibit A, a notice of the City’s intention to issue the Certificates (the “Notice”).

Section 3. The Notice shall be published once a week for two (2) consecutive weeks in a newspaper that is of general circulation in the City, the date of the first publication to be at least forty-six (46) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates. In addition, the Notice shall be posted continuously on the City’s website for at least forty-five (45) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates.

Section 4. For the purposes of the Notice, the City hereby designates as self-supporting those public securities listed in the attached Exhibit B, the debt service on which the City currently pays from sources other than ad valorem tax collections. The City plans to continue to pay these

public securities based on this practice; however, there is no guarantee this practice will continue in future years.

Section 5. For purposes of section 1.150-2(d) of the Treasury Regulations, to the extent that an official intent to reimburse has not previously been adopted by the City, this Notice serves as the City’s official declaration of intent to reimburse itself from proceeds of the Certificates in the maximum principal amount and for expenditures paid in connection with the projects, each as set forth in Exhibit A hereof. Any such reimbursement will only be made (i) for an original expenditure paid no earlier than 60 days prior to the date hereof and (ii) not later than 18 months after the later of (A) the date the original expenditure is paid or (B) the date the project to which such expenditure relates is placed in service or abandoned, but in to event more than three years after the original expenditure is paid.

Section 6. The City hereby authorizes City’s financial advisor, USCA Municipal Advisors, LLC, bond counsel, Bracewell LLP, and engineer, Garver LLC, to proceed with the necessary arrangements for the sale of the Certificates and the receipt of financial assistance from the TWDB.

Section 7. The Mayor, City Manager, Finance Director, Director of Public Works, City Secretary, and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this resolution.

Section 8. This resolution shall take effect immediately upon its passage.

Section 9. The notice and agenda relating to this meeting and heretofore posted by the City Secretary, and the posting thereof, are hereby authorized, approved, and ratified.

*[Execution Page to Follow]*

PASSED AND APPROVED on this the 1st day of December, 2020 by the City Council of the City of Bay City, Texas.

---

The Honorable Robert K. Nelson, Mayor,  
City of Bay City, Texas

ATTEST:

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Jeanna Thompson, City Secretary  
City of Bay City, Texas

[SEAL]

APPROVED AS TO FORM:

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Anne Marie Odefey, City Attorney  
ROBERTS, ODEFEY, WITTE & WALL,  
LLP  
City of Bay City, Texas

EXHIBIT ANOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Bay City, Texas (the “City”), will meet at City Hall, 1901 5<sup>th</sup> Street, Bay City, Texas, 77414 at 6:00 p.m. on the 26th of January, 2021, which is the time and place tentatively set for the passage of an ordinance and such other action as may be deemed necessary to authorize the issuance of the City’s Tax and Revenue Certificates of Obligation, Series 2021B (DWSRF), in the maximum aggregate principal amount not to exceed \$\_\_\_\_\_, payable from ad valorem taxes and from a pledge of a subordinate lien on the surplus revenues of the City’s water and sewer system, bearing interest at any rate or rates not to exceed the maximum interest rate now or hereafter authorized by law, as shall be determined within the discretion of the City Council of the City at the time of issuance of the certificates of obligation, and maturing over a period not to exceed forty (40) years from the date of issuance, for the purposes of evidencing the indebtedness of the City for all or any part of the costs associated with improvements to the City’s water system, including (i) the design, construction, and equipment of two water plants, including water wells, ground storage tanks, hydropneumatic tanks, booster pump stations, disinfection equipment, and related infrastructure and equipment, (ii) the design, construction, and equipment of water transmission lines, (iii) design, construction, rehabilitation, replacement, and equipment of water lines and other water infrastructure, (iv) meter replacements, (v) design, construction, rehabilitation, replacement, and equipment of existing water treatment plants and related infrastructure, and (vi) the costs of professional services related thereto. The Certificates are being issued to evidence the receipt of financial assistance from the Texas Water Development Board under the Drinking Water State Revolving Fund. The estimated combined principal and interest required to pay the Certificates on time and in full is \$\_\_\_\_\_. Such estimate is provided for illustrative purposes only, and is based on an assumed interest rate of approximately \_\_\_\_\_%. Market conditions affecting interest rates vary based on a number of factors beyond the control of the City, and the City cannot and does not guarantee a particular interest rate associated with the Certificates. As of the date of this notice, the aggregate principal amount outstanding of tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting in Resolution No. R-2020-\_\_\_, dated December 1, 2020, which resolution is available from the City upon request) is \$\_\_\_\_\_. Based on the City’s expectations, as of the date of this notice, the combined principal and interest required to pay all of the outstanding tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting) on time and in full is \$\_\_\_\_\_.

WITNESS MY HAND AND THE OFFICIAL SEAL OF THE CITY, this 1st day of December, 2020.

Jeanna Thompson  
City Secretary  
City of Bay City, Texas

EXHIBIT B

## SELF-SUPPORTING DEBT

**[\$12,536,476]**      **Total Principal Amount Designated as Self-Supporting**

The total principal amount of self-supporting debt is comprised of some or all of the debt from the following series of obligations:

**Series Designation**

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Tax and Revenue Obligations, Series 2012

Tax and Revenue Certificates of Obligation, Series 2014

Tax and Revenue Certificates of Obligation, Series 2016

Tax and Revenue Certificates of Obligation, Series 2020

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS           §  
COUNTY OF MATAGORDA       §

I, the undersigned officer of the City Council of the City of Bay City, Texas, hereby certify as follows:

1.       The City Council of the City of Bay City, Texas, convened in a regular meeting on the 1st day of December, 2020, at the regular meeting place thereof, within said City, and the roll was called of the duly constituted officers and members of said City Council, to wit:

- |                   |   |
|-------------------|---|
| Robert K. Nelson  | Mayor   |
| Floyce Brown      | Council Member, Position No. 1                    |
| Jim Folse         | Council Member, Position No. 2                    |
| Brent Marceau     | Council Member, Position No. 3                    |
| Becca Sitz        | Council Member, Position No. 4                    |
| Jason W. Childers | Mayor Pro Temp and Council Member, Position No. 5 |

and all of said persons were present, except the following absentee(s): \_\_\_\_\_, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written

RESOLUTION NO. R-2020-\_\_

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION IN CONNECTION WITH THE RECEIPT OF FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD THROUGH THE DRINKING WATER STATE REVOLVING FUND; AND APPROVING OTHER MATTERS INCIDENTAL THERETO

was duly introduced for the consideration of said City Council. It was then duly moved and seconded that said resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of said resolution, prevailed and carried by the following vote:

\_\_\_\_\_ Member(s) of City Council shown present voted "Aye."

\_\_\_\_\_ Member(s) of City Council shown present voted "No."

2.       A true, full and correct copy of the aforesaid resolution adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said resolution has been duly recorded in said City Council's minutes of said meeting; that the above

and foregoing paragraph is a true, full and correct excerpt from said City Council's minutes of said meeting pertaining to the adoption of said resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the date, hour, place and purpose of the aforesaid meeting, and that said resolution would be introduced and considered for adoption at said meeting, and each of said officers and members consented, in advance, to the holding of said meeting for such purpose; that said meeting was open to the public as required by law; and that public notice of the date, hour, place and subject of said meeting was given as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED this 1<sup>st</sup> day of December, 2020.

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Jeanna Thompson, City Secretary  
City of Bay City, Texas

[SEAL]

ORDINANCE NO. \_\_\_\_\_

**ORDINANCE AMENDING THE CITY CODE OF ORDINANCES RELATING TO CHAPTER 114 UTILITIES; PROVIDING PENALTIES; PROVIDING FOR REPEAL ALL PRIOR LAW IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS that the amendments shown on the attached Exhibit "A" are adopted as Amendments to Chapter 114, Utilities, in its Code of Ordinances.

Section 1. The amendments are to be made to the referred to sections of the Code of Ordinances. All insertions are made with red colored letters and all deletions are shown as such.

Section 2: Other than as amended herein, all remaining sections of Chapter 114 remain in full force and effect. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**PASSED AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Robert K. Nelson, Mayor  
City of Bay City, Texas

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jeanna Thompson, City Secretary  
City of Bay City

\_\_\_\_\_  
Anne Marie Odefey, City Attorney

<b><u>Council Member:</u></b>	<b><u>Voted Aye</u></b>	<b><u>Voted No</u></b>	<b><u>Absent</u></b>
Robert K. Nelson Mayor	_____	_____	_____
Julie L. Estlinbaum	_____	_____	_____
Bill Cornman	_____	_____	_____
Jason Childers, Mayor Pro Tem	_____	_____	_____
Becca Sitz	_____	_____	_____
Brent Marceaux	_____	_____	_____

Chapter 114 - UTILITIES<sup>11</sup>

## Footnotes:

--- (1) ---

**Charter reference**— Public utilities, art. XIII.**State Law reference**— Water and other utilities, V.T.C.A., Local Government Code 551.001 et seq.

## ARTICLE I. - IN GENERAL

Secs. 114-1—114-18. - Reserved.

## ARTICLE II. - ADMINISTRATION

Sec. 114-19. - Director of department of public works.

There is hereby created the office of director of the department of public works. The director shall be appointed by the ~~mayor~~ [City Manager](#) and confirmed by the city council. The director of the department of public works shall be the administrative officer of the utilities system. The director of the department of public works shall attend to and control the water supply and at all times see to the sufficiency thereof. He shall notify the community, unless emergency requires otherwise, of the necessity of shutting off any pipeline for the purpose of making repairs, extensions, connection, etc., should he know beforehand the necessity to so shut off the water from any line or lines of the system.

(Code 1985, § 30-1; Code 2000, § 114-1)

Sec. 114-20. - Penalty and costs of collection.

- (a) Any person violating any of the provisions of this chapter is guilty of a Class C misdemeanor and, upon conviction, shall be fined not more than \$2,000.00. Each day a violation of this chapter continues shall be a separate offense.
- (b) In any suit under this chapter for enforcement or collection, the unsuccessful party shall be responsible for the city's reasonable attorney's fees, costs of court and other reasonable expenses.

(Code 1985, § 30-2; Code 2000, § 114-2)

Sec. 114-21. - Written agreement with customer.

The city may elect in the future to only provide city utilities to a customer who has executed a standard written agreement with the city to abide by all city utility ordinances as in effect or hereafter amended.

(Code 1985, § 30-3; Code 2000, § 114-3)

Sec. 114-22. - Water and sewer deposits.

The following deposit fees shall be effective:

- (1) *Deposits.* See appendix B for fees, rates and charges.

(2) *Waiver of deposit.* Customers may apply to the ~~director of public works~~ City Manager or his/her designee for a waiver of deposits which shall be based solely upon prior positive utility payment history with the city.

(3) *Outside of the city limits.* The deposit for customers outside of the city limits shall be two times the deposit for customers within the city.

(4) Deposits are refundable at the time service is disconnected; and will be applied first to any outstanding balance.

(5) The City shall refund security deposits for residential customers that have paid utility bills for 12 consecutive billings without having been delinquent.

(4) Termination of service fees.

a. *Reconnection fees.* Water service shall be terminated for nonpayment by closing the curbstop. If service to an account that has been terminated is restored without approval from the water department, the city may, at its sole discretion, pull or lock the meter for the discontinued service and charge a tampering fee. If the meter is damaged due to the service being restored without approval from the water department the customer shall be responsible for all repair costs. Water service shall not be restored after termination until all amounts due on the account have been paid, together with the required reconnection fee. The reconnection fee shall be as set out in appendix B, fee schedule.

b. *Required deposit.* The deposit amount required before restoring water service to any residential customer whose account with the city has been terminated in accordance with section 114-90 shall be as set out in appendix B, provided that the total of all deposits required under this section shall not exceed the amount set out in appendix B. ~~A homeowner will not be required to pay a deposit as set out in appendix B if the account has not been terminated in the previous 12 months.~~ Any commercial customer whose account with the city has been terminated in accordance with section 114-90 will be required to pay deposit as set out in appendix B, per occurrence of account termination, provided that the total of all deposits on the account shall not exceed an amount equal to an average of the previous three months of billing on the account.

(5) Lien.

a. Pursuant to V.T.C.A., Local Government Code ch. 552, there is hereby imposed a lien on each property that is served by the city's water and/or wastewater system to secure payment of delinquent municipal accounts. This lien does not attach to property that is a homestead as protected by the Texas Constitution. This lien shall not apply to bills for service connected in a tenant's name after notice by the property owner to the municipality that the property is rental property. This lien shall not apply to bills for service connected in a tenant's name prior to the effective date of the ordinance imposing the lien.

b. The ~~mayor~~ City Manager or his/her designee shall perfect the city's lien by recording a notice of lien in the real property records of Matagorda County, Texas, that includes:

1. The name of the owner of the property;
2. The name of the person who received the service, if different than the owner;
3. The legal description of the property;
4. The amount owed to the city, including penalty, interest, and collection costs; and
5. The type of service of which the payment is delinquent.

c. The city's lien shall be inferior to a bona fide mortgage lien that is recorded prior to the date the city's lien is recorded in the real property records of Matagorda County, Texas, but shall be superior to all other liens including previously recorded judgment liens and all liens recorded after the city's lien.

**Commented [BC1]:** The Fee Schedule does not identify a security deposit. Need clarification. Suggest removing this policy.

**Commented [BC2]:** Check numbering

**Commented [BC3]:** Check numbering

(Code 1985, § 30-4; Code 2000, § 114-4; Ord. No. 1337, § V, 11-9-2006; [Ord. No. 1625, 9-27-2018](#).)

Sec. 114-23. - Statement of accounts furnished manager.

The ~~director of public works~~[City Manager or his/her designee](#) shall be furnished a statement monthly showing the status and conditions of all delinquent accounts and the deposits held thereon.

(Code 1985, § 30-5; Code 2000, § 114-5)

Sec. 114-24. - Tapping sewer and waterlines.

Only authorized employees of the city may make the actual sewer and water taps. It is a violation of this chapter for anyone to make an unauthorized tap and punishable as a Class C misdemeanor under section 114-20. The director of public works or his/[her](#) designate may authorize, but is not required by this section to authorize, a qualified contractor to make water and sewer taps to [residential and](#) commercial facilities, so long as such taps are inspected by the city and meet city specifications.

(Code 1985, § 30-6; Code 2000, § 114-6)

Sec. 114-25. - Sewer and water tap fees and surcharges.

- (a) Sewer and water tap fees or quantity cost control capital recovery fees must be paid in full or a valid written contract executed with the city prior to the city connecting the customer into either the city's water or sewer system. If a ~~citizen-customer~~ or user fails to pay any water or sewer tap fee, quantity cost control capital recovery fee or monthly payment as due, the city is authorized to immediately disconnect ~~him~~[the customer or user](#) from both the city's water and sewer facilities though the ~~citizen-customer~~ or user is only in arrears in ~~his~~[the customer's](#) payment for one facility and not both water and sewer facilities.
- (b) It is a violation of this article and a Class C misdemeanor to fail to pay tap fees prior to tapping into the water and sewer lines of the city.

~~(Code 1985, § 30-7; Code 2000, § 114-7; Ord. No. 1337, § VIII, 11-9-2006)~~

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Sec. 114-26. - Late payment fees.

A late payment fee is hereby fixed and required to be paid by all utility customers who have charges not paid by the fifth day after the statement due date. The late fee shall be as set out in appendix B, and shall be included in on the customer's utility billing statements. To avoid late charges, payment must be received in the utility billing and collections office located at city hall, (1901 5th Street) by 5:00 p.m. on the fifth day after the statement due date. Payments left in the night drop box after 5:00 p.m. on the fifth day after the statement due date shall be considered a late payment. Payments made online shall be posted when funds are actually received and are subject to late penalty if not timely received.

**Note**— Late payment fees for solid waste services shall remain under the purview of Ordinance No. 1374, passed and approved on September 14, 2009.

(Ord. No. 1442, § 3, 10-11-2012; [Ord. No. 1625, 9-27-2018](#).)

Sec. 114-27. - ~~Annual consumer price index adjustment~~[Rate Changes](#).

~~On September 1st of each year, all rates and fees of the city's utility shall be adjusted by the average of the most recent prior 12 average of the annual consumer price index adjustment that has been posted by the United States Department of Labor, Bureau of Labor Statistics. This average CPI adjustment shall be calculated by the city's director of finance. City Council approves by ordinance all rate or fee changes to the water, sewer, and garbage fees.~~

~~**Note**—Annual consumer price index adjustments for solid waste services shall remain under the purview of Ordinance No. 1374, passed and approved on September 14, 2009.~~

~~(Ord. No. 1442, § 4, 10-11-2012)~~

Secs. 114-28—114-53. - Reserved.

ARTICLE III. - WATER<sup>[2]</sup>

Footnotes:

--- (2) ---

**State Law reference**— Water control, V.T.C.A., Local Government Code 551.001 et seq.

DIVISION 1. - GENERALLY

Sec. 114-54. - Service to premises outside city.

No premises located outside the city limits shall be furnished water by the city, unless the owner of such premises agrees to petition for annexation if the city requests him to do so. The owner of such premises shall be financially responsible for extending utilities to said premises.

(Code 1985, § 30-21; Code 2000, § 114-41)

Sec. 114-55. - Tapping charges.

- (a) The tapping charges for connections with the city water mains and laterals shall be as set out in appendix B.
- (b) ~~If field verification is required to located City utilities, a fee shall be charged as set forth in Appendix B Fee Schedule. location is not provided to the city, then there will be an additional charge of \$200.00 for the city to locate. Additional charges may apply for any locates longer than four hours.~~

(Code 1985, § 30-22; Code 2000, § 114-42; Ord. No. 1377, § II, 11-9-2006; Ord. No. 1625, 9-27-2018)

Sec. 114-56. - Service application.

- (a) Any person desiring water service from the city, ~~waterworks system~~ shall make application therefor to the director of public works or his her designate on forms provided for such purpose. The following information shall be required:
  - (1) The uses for which water is desired.
  - (2) The name of the person, or the owner of the premises, to be served.

- (3) The location of the premises to be served, including the number of the lot and block, name of the street and the house number.
- (b) Upon the approval of the application for water service, the director of public works or his/her designate shall issue a permit therefor.
- (c) The City reserves the right to inspect plumbing on premises to which the connection is to be made and determine if it complies with all city ordinances, American Water Works Association (AWWA) standards, and Texas Commission on Environmental Quality (TCEQ) rules and regulations prior to opening new service.
- (d) Any person knowingly furnishing the city with false or fraudulent information, shall be guilty of an offense and, upon conviction thereof, shall be fined as provided in section 114-20 of this Code. Each day that such violation continues shall constitute a separate offense and be punishable as such. This penalty shall be in addition to any other remedy, penalty or sanction provided for herein.

(Code 1985, § 30-23; Code 2000, § 114-43)

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Sec. 114-57. - Connection fees.

See appendix B for connection fees.

(Code 1985, § 30-24; Code 2000, § 114-44; Ord. No. 1337, § VI, 11-9-2006; Ord. No. 1442, § 1, 10-11-2012; Ord. No. 1625, 9-27-2018.)

Sec. 114-58. - Notice of discontinuance by consumer.

Any person wishing to discontinue the use of water supplied from the city's ~~waterworks system~~ must give notice thereof to the ~~director of public works~~ City Manager or his/her designate; otherwise, the charge will be entered until such notice has been given.

(Code 1985, § 30-25; Code 2000, § 114-45)

Sec. 114-59. - Taps.

Upon the payment of the required tapping fee, the director of public works or his/her designate shall make or cause to have made, the necessary connections for water service. Every premises connected to the waterworks system of the city, or otherwise being served thereby, shall have a separate service connection, ~~and, curbstop, and box, and curb cock.~~ Each separate consumer of water must have a separate connection and meter for each house; provided, however, that where a residence is not in reach of the waterworks system, arrangements may be made to secure water from another consumer of water upon City approval.

Commented [KM4]: Deleted – the connection is based on a structure/premise, not consumer. Also securing water from another consumer encourages cross connections.

(Code 1985, § 30-26; Code 2000, § 114-46)

Sec. 114-60. - Use of fire hydrants.

It shall be unlawful for any person to open or close any fire hydrant or end of the line blow off valvestopcock connected with the city's waterworks system, or lift or remove the covers of any gate valve or shutoffs thereof, without the permission of the director of public works or his/her designate, except in case of fire, and then only under the direction of officers of the fire department.

(Code 1985, § 30-27; Code 2000, § 114-47)

Sec. 114-61. - Meters.

All meters, ~~whether privately owned or belonging~~ connected to the City's waterworks system shall be set by the employees of the city. Privately owned meters shall be installed by a licensed contractor or plumber and shall be inspected by the City and meet City specifications. If the meter becomes defective and fails to register, the consumer will be charged at the average daily consumption, as shown by the meter when in order. All water that passes through the meter shall be charged for, whether used or not. All services shall be properly metered by a standard water meter, except for fire lines, which shall be metered by a city-approved leak detector meter. All meters shall be the property of the city and shall be kept in repair by the city.

(Code 1985, § 30-38; Code 2000, § 114-48)

Sec. 114-62. - Covering meters, boxes.

It shall be unlawful for any person to cover over or conceal from view any water valve box, service or meter box. The customer shall keep the space occupied by the meter and the meter box or vault free from rubbish, animals or obstructions of any kind. In the event the water meter box or vault is buried or obstructed, the department may give written notice to the customer requiring such person to uncover or remove obstructions from the meter box or vault within 1410 (fourteen) days of the notice. If the customer does not remove the obstruction, the city may remove the obstruction and charge the customer or property owner the city's cost for such work. If the customer or property owner fails to make payment, the city may file a lien against the property as provided in section 114-22(5) of this Code.

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(Code 1985, § 30-29; Code 2000, § 114-49)

Sec. 114-63. - Unauthorized resumption of service.

It shall be unlawful for any person to turn on the water supply to any building or to any supply pipe where the supply has been turned off for the nonpayment of the monthly water charge, an inactive account, or for the violation of any applicable ordinance or regulation. If it is determined by inspection of the utility department that terminated water service has been restored without such consent, the customer in whose name the account appears or the owner of the property, if the account is inactive, shall be assumed to have restored the water service and will be subject to penalties identified in the ordinance and fees identified in Appendix B Fee Schedule.

(Code 1985, § 30-30; Code 2000, § 114-50)

Sec. 114-64. - Drought contingency plan and water conservation plan adopted.

That the city drought contingency plan attached hereto the ordinance from which this section is derived as exhibit "A" and water conservation plan attached hereto the ordinance from which this section is derived as exhibit "B" and made part hereof for all purposes be, and the same is hereby, adopted as the official policy of the city.

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(Code 2000, § 114-51; Ord. No. 1251, § 1, 8-26-1999; [Ord. No. 1524, § 1, 11-20-2014](#) )

**Editor's note**— [Ord. No. 1524, § 1, adopted November 20, 2014](#), amended § 114-64 to read as set out herein. Previously § 114-64 was titled drought contingency plan adopted.

Secs. 114-65—114-86. - Reserved.

Commented [KM7]: Can the reserved sections be used ?

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Sec. ~~144-65~~114-65 – Right of entry; time; purposes

Every person receiving water from the city shall, at all times, permit the city water employee, or other officer or agent of the city, to enter ~~his~~the premises or building to examine ~~his~~the pipes and fixtures, the manner in which the water is used and for the purpose of repairing, reading or testing the meters.

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Sec. ~~144-66~~114-66. – City’s reserved rights; liability exemption

(a) ~~Shutting off all water; purposes.~~ The city reserves the right at any time to turn off the water in its mains for the purpose of cleaning, repairing or making any connections or extensions, or for the purpose of repairing machinery, reservoir or any part of the waterworks system.

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(b) ~~Exemption from liability.~~ The city shall not be liable for any damages on account of leakage or breakage of pipes on any premises.

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(c) ~~Proof of ownership.~~ Whenever ownership is a prerequisite to any right in this article, the city reserves the right to consider any reasonable proof thereof.

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(d) ~~Right to make other rules.~~ The city reserves the right to make such other rules and regulations as may be necessary for the preservation, protection and economical administration of its water system.

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Sec. ~~144-67~~114-67. – Control of water service connection

The city shall own and maintain that part of the water service connection extending from the main to the meter, including the service line, meter, meter box, vault enclosure, and attached electronic devices. No person may remove, repair or tamper with any of the elements of the water service connection except with the consent of the utility official. Violation of this section shall be punishable by a fine not to exceed \$500.00. Provided, however, this section does not prohibit the resident or custodian of the property from shutting off the water at the meter if necessary, to prevent water loss due to frozen water pipes and other emergencies. All connections to the City’s water system shall have a private shut off valve.

Sec. 114-68. - City's installation and maintenance.

(a) The city will install and maintain its lines and equipment on its side of the meter according to the city’s design standards, but the city is not required to install or maintain any lines or equipment on the customer’s side of the meter. If loss or damage to the property of the city is caused by the negligence or misuse of the customer, the customer is liable for the costs of repairs.

(b) The customer must protect the city’s potable water supply by installing, operationally testing and maintaining backflow assemblies and methods as required, approved and accepted by the city.

Sec. ~~144-68~~114-69. – Customer’s installation

(a) The customer is responsible for installing, providing, repairing, and maintaining all water service facilities located on the customer's side of the meter.

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(b) To receive city service, the customer must convey to the city any property rights necessary to extend the city's lines or extensions thereof or other equipment necessary or incidental to the supplying of service to the customer, without reimbursement from the city.

- (c) The customer must maintain the premises so that city's agents have safe and unobstructed access to all portions hereof for the purpose of maintaining, removing, or replacing the city's property, reading meters, inspecting plumbing systems, and backflow methods and assemblies and other apparatus on new and remodeled installation, and all other purposes incident to the supplying of service to the customer.
- (d) The customer's service connections are to be located at a point readily accessible to the city's service facilities. The service connection point is to be determined by the city, using the most direct route to city facilities, and the point may be relocated if deemed necessary by the city.
- (e) All installations must conform with city plumbing, building, mechanical, energy conservation, fire, and electrical codes, and with any other city ordinance governing the customer's installation.
- (f) Where and as required by the city's ordinance, backflow prevention assemblies, devices and methods must be installed, maintained and operationally tested by a licensed plumber or backflow assembly tester at the expense of the customer ~~the customer~~, provided water service is directly or indirectly connected, or interconnected to the city's potable water distribution system.
- (g) The customer will install and maintain operable a ~~city-appointed water cut~~ shut off valve ~~at an approved location~~ on the customer's side of the meter.
- (h) If the customer's plumbing fixtures are lower than the castings onto the city's mains, the customer must install the necessary backflow protection equipment.

Sec. 114-~~69~~70. – Private water well

It shall be unlawful for any person to drill or repair any water well within the city limits or the extraterritorial jurisdiction of the city when city water is available if such property is situated within 300 feet of a city water main. In the event city water is not available, the Director of Public Works may issue a serviceability letter permitting the water well.

Sec. 114-~~70~~71. – Wellhead protection

(a) The following requirements have been adopted to prevent pollution of water pumped from the wellheads of city-owned wells, as set out below:

- (1) It shall be unlawful for any person to construct a tile or concrete sanitary sewer, sewer appurtenance, septic tank, storm sewer, or cemetery within 50 feet of a city water well. With respect to sanitary or storm sewers, it is an affirmative defense to prosecution under this item (1) that the sanitary or storm sewer is located ten feet or more from the city water well, is constructed of ductile iron or PVC pipe that meets American Water Works Association standards, has a minimum working pressure of 150 psi or greater, and is equipped with pressure type joints.
- (2) It shall be unlawful for any person to allow livestock in pastures within 50 feet of a city water well.
- (3) It shall be unlawful for any person to construct an on-site sewage facility tank perforated drain field, tank absorption bed, or tank evapotranspiration bed, or to construct a petroleum or chemical storage tank or liquid transmission pipeline within 150 feet of a city water well.
- (4) It shall be unlawful for any person to irrigate an area within 150 feet of a city water well with spray from an on-site sewage facility.
- (5) It shall be unlawful for any person to construct a water well within 150 feet of a city water well unless the well complies with all applicable state regulations.
- (6) It shall be unlawful for any person to construct a sewage wet well or sewage pumping station within 300 feet of a city water well.
- (7) It shall be unlawful for any person to construct a drainage ditch for industrial waste or sewage treatment waste within 300 feet of a city water well.
- (8) It shall be unlawful for any person to construct a sewage treatment plant, animal feed lot, or solid waste disposal site within 500 feet of a city water well.

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(9) It shall be unlawful for any person to apply sludge or effluent from a septic tank or sewage treatment plant on land with 500 feet of a city water well.

(10) It shall be unlawful for any person to drill an oil or gas well, including an injection well for recovery of oil or gas within 500 feet of a city water well.

(b) It is a defense to prosecution under subsection (a) of this section that the actor has obtained a variance in writing from the utility official. The utility official shall grant a variance upon a showing by the applicant that: (1) the facility or activity will not contaminate the groundwater, and (2) the facility or activity is not prohibited under any other provision of this Code.

(c) The department shall investigate existing facilities whether located within or without the distance requirements of subsection (a) and determine if those facilities are a pollution hazard to city well water. The department shall recommend acquisition of such facilities in the event the department determines that the facilities are a pollution hazard to city well water and the owner refuses to take action necessary to abate the pollution hazard.

(d) Any person who violates any provision of this section shall be guilty of an offense and upon conviction thereof shall be subject to a fine of not less than \$500.00 nor more than \$2,000.00 for each violation. Each day in which a violation occurs shall constitute a separate offense. In addition to criminal prosecution, the legal department may seek appropriate judicial remedies to protect city ground water from contamination.

Sec. 114-7472. – Misuse of water; damage to waterworks system

(a) No person shall apply water furnished by the city to any use different from that named in the application or contract for water service, nor shall any customer supply water to other persons or to other families or permit them to take water, nor shall any person, after the water is introduced to any building or upon any property make any tap or connection upon such property for the purpose of altering, repairing, or making extensions or attachments to furnish water to other families on such property. Misuse of water also includes theft of water service, making an unauthorized connection, construction of a by-pass of the water meter or use of any other device or arrangement that would prevent the water meter from correctly measuring the customer’s water supply from the city. Any waste or misuse of water shall be an offense.

(b) It shall be an offense for any person to use water from a connection to a city water main except through a meter properly measuring the flow.

(c) In any case of misuse of water or customer damage to any property of the city waterworks, the city will bill the customer for previously unbilled utility costs for all water not recorded on the meter, and any wastewater service based thereon. The city may also bill the customer for any other city costs, including personnel costs, incurred in investigating and correcting the unlawful use or damage to city property.

(d) The city may terminate a customer’s utility service for any misuse or damage to city waterworks system.

(e) It is prima facie evidence that a person has misused water or tampered with the meter if the person is the customer or owner of the property and:

- (1) Water is prevented from passing through the city’s meter;
- (2) The City’s meter is prevented from correctly registering the quantity of water supplied to the property unless the faulty measurement is due to age, normal wear and tear or natural causes;
- (3) Water is diverted or bypassed around the meter;
- (4) The city’s meter or service connection to the property is removed; or
- (5) Wastewater is prevented or diverted from flowing from the property into the city’s wastewater system.

Sec. 114-73. – Customer Service Inspection prior to connection, reconnection or transfer of service.

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Prior to the original connection, reconnection or transfer of water and/or sewer service to a tenant or property owner, the city at its option shall perform a Customer Service Inspection of the customer's private system and verify the integrity thereof. Any defects discovered in the private line shall be repaired by the property owner or his/her agent prior to obtaining the original connection, reconnection or transfer of city water and/or sewer service.

(Code 1985, § 30-143; Code 2000, § 114-203)

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~~(a)~~  
DIVISION 2. - RATES AND CHARGES

Sec. 114-87. - Definitions.

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

*Billing period* means any period of 30 consecutive days during which period a consumer of the city waterworks system is billed.

Account Types:

~~Commercial consumer means any nonresidential enterprise; however, multi-unit buildings (e.g., apartment complexes) are considered to be commercial consumers.~~ Residential- single family or single unit dwelling

Multi-Family- means any residential housing consisting of two or more separate living units (one meter servicing multiple living units)

Non-Residential (Commercial)- all other uses, excluding single-family residential, multi-family residential and industrial

Industrial Customers- a user who has a reasonable potential to adversely affect the discharge process to the wastewater treatment plant

~~Domestic consumer means any building (customarily) used for residential purposes, excluding apartment complexes.~~

(Code 1985, § 30-46; Code 2000, § 114-76)

Sec. 114-88. - Schedule.

See appendix B for monthly rate schedules.

Sec. 114-88.1 Methodology for Utility Rates.

(a) Monthly Service Charges are fees for being connected to the water utility and vary based on the size of the meter. Consumption charges are billed separately.

1. Single -family residential customers will be billed monthly rate by meters size which includes 2,000 gallons of water.
2. Multi-Family customers will be billed a monthly rate based on meter size. Rates shall be the same as non-residential users (commercial).

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3. Non-Residential (Commercial) customers will be billed a monthly rate by meter size.
4. Irrigation meters shall be charged a per month charge based on meter size and type of rates (residential or commercial) shall be based on customer account type. No sewer charge shall be charged.
5. Fire Sprinklers shall be charged a per month charge based on meter size and type of rates (residential or commercial) shall be based on customer account type. No sewer shall be charged.

(b) Consumption Charges are based on monthly water consumption and may include rates that increase with higher consumption (known as conservation rates) or higher peak demand requirements that increase system costs. Consumption charges vary by account type.

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(Code 1985, § 30-47; Code 2000, § 114-77; Ord. No. 1337, § I, 11-9-2006; [Ord. No. 1625, 9-27-2018](#).)

Sec. 114-89. - Due date and payment.

All rates and charges for water service furnished or rendered by the city waterworks system to any consumer thereof shall be due and payable within ten days after the date the bill therefor was mailed. Such rates and charges shall be paid at the office of the water department.

(Code 1985, § 30-48; Code 2000, § 114-78)

Sec. 114-90. - Termination of service for nonpayment of charge.

If all rates and charges for water service furnished any consumer by the city are not paid within ten days after the billing date thereof, the city may cut off and discontinue water service to such consumer. In such event, such service shall not be reconnected and no further water shall be furnished such consumer until all past-due rates and charges have been paid in full.

(Code 1985, § 30-49; Code 2000, § 114-79)

Secs. 114-91—114-108. - ~~Reserved.~~ [Leased Properties](#)

- 1) Accounts for Multi-Family Units shall be the responsibility of the property owner and the account shall be in the name of the property owner.
- 2) The City reserves the right to inspect property prior to activation of service.

ARTICLE IV. - SEWERS AND SEWAGE DISPOSAL<sup>[3]</sup>

Footnotes:

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**State Law reference**— General authority to enact rules regulating sewage disposal, V.T.C.A., Water Code § 26.176; municipal utilities, V.T.C.A., Local Government Code § 552.001 et seq.; sanitation and environmental quality, V.T.C.A., Health and Safety Code § 341.001 et seq.

DIVISION 1. - GENERALLY

Sec. 114-109. - Fees for sewer taps.

The tapping fees for connection to the city sewer system shall be as set out in appendix B, fee schedule.

(Code 1985, § 30-65; Code 2000, § 114-101; Ord. No. 1337, § IV, 11-9-2006; [Ord. No. 1625, 9-27-2018](#).)

Sec. 114-110. - Certain connections prohibited.

It shall be unlawful for any person to connect any cesspool or privy vault with any sanitary sewer or drain in the city.

(Code 1985, § 30-71; Code 2000, § 114-102)

Secs. 114-111—114-133. - Reserved.

Sec. 114-111. – Required connections to public sewers.

All owners of real property inside the city limits shall ascertain the availability of city sewer service for the owner's property. If such property is situated within 300 feet of a city sewer main, the owner shall within 60 days of notice from the department apply for a sewer tap permit and pay any fee due the city for the permit including Quantity cost capitol recovery fee if applicable. The connection must be completed six months after the date of the application for the permit, unless the utility official, because of extraordinary circumstances, grants additional time. After expiration of the six-month period, the department shall charge the owner's account for sewer service unless the utility official grants additional time.

During the same six-month time period the owner must also remove all septic tanks from the property, or in the alternative, may leave any tanks in place and fill them with sand or dirt after the waste has been removed. The owner must ensure all remediation is in accordance with requirements established by the department.

In addition to other remedies available to the department, in the event the owner fails to comply with this section, the department may terminate water service to the property. Provided, however, in the event the department terminates water service, it must provide notice to the owner.

Any person owning such property, who after notice from the department fails the comply with these requirements within the time period specified herein, shall be guilty of an offense punishable by a fine not to exceed \$2,000.00. Each day the violation continues shall constitute a separate offense.

Sec. 114-112. – Metering water not furnished by city to determine charge.

Any customer discharging waste from any property or premises into the sanitary sewers of the city who has a private source of water supply or who receives the customer's water supply from a source other than the city shall install a meter of the type and standard approved by the department for the purpose of measuring the amount of wastewater discharged. Such meter shall be installed in a location approved by the department and accessible to the water meter readers of the city at all times during city business hours. The wastewater consumption indicated by such meter shall be the basis of determining the sewer charge provided for in this article, to be billed at the applicable rate as stated in section 114-134 of this Code.

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## DIVISION 2. - RATES AND CHARGES

## Sec. 114-134. - Schedule.

See appendix B for monthly rate schedules.

~~Sec. 114-XXX. — Metering water not furnished by city to determine charge.~~

~~Any person discharging waste from any property or premises into the sanitary sewers of the city who has a private source of water supply or who receives his water supply from a source other than the city shall install a meter of the type and standard approved by the department for the purpose of measuring the amount of wastewater discharged. Such meter shall be installed in a location approved by the department and accessible to the water meter readers of the city at all times during city business hours. The wastewater consumption indicated by such meter shall be the basis of determining the sewer charge provided for in this article, to be billed at the applicable rate as stated in section 114-134 of this Code.~~

(Code 1985, § 30-86; Code 2000, § 114-126; Ord. No. 1337, § III, 11-9-2006; [Ord. No. 1625, 9-27-2018](#) )

## Sec. 114-135. - Quantity cost capitol recovery fee (surcharge).

- (a) *Authorization.* The director of public works, or his/her designate, is authorized to make additional sewer charges which will be designated as quantity cost capitol recovery fees to any customer who places into the sewer system any effluent which either:
- (1) Is potentially harmful to the system or likely to create stoppage, require cleaning or reduce efficiency of the system or
  - (2) Requires, or is likely to require, additional treatment, observation or testing.
- (b) *Quantity of effluent.* See appendix B for quantity cost capitol recovery fees.
- (c) *For other applications or industrial wastes.* Quantities or qualities shall be reasonably substantiated by the director of public works or agreed upon in writing by the customer and the director of public works.
- (d) *Quality of effluent.* If the quality of the effluent is other than domestic by definition, it shall be regulated by division 5 of this article.
- (e) *Low-to-moderate income surcharge exemption.*
- (1) *Homeowner financial eligibility.* Annual income, regardless of source, is based upon the United States Department of Housing and Urban Development Housing Assistance Program income guidelines.
  - (2) *Eligible deductions.* Only those deductions allowed by the United States Department of Housing and Urban Development Housing Assistance Program shall apply.
  - (3) *Legal eligibility.*
    - a. Homeowners of single-family structures shall only be eligible.
    - b. Homeowners must possess title to the property and improvements (fee simple or mortgage) for which the exemption is being sought.
    - c. The structure must be the homestead residence of the homeowner.
    - d. The structure must remain in the homeowner's possession for a year following the date of issuance of exemption.
  - (4) *Denial and appeal.*

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- a. Denial or exemption shall be the decision of the city and will be based on the guidelines listed under financial and legal provisions.
- b. An appeal by the exemption applicant shall first be made to the director of public works and finally to the city council.

(Code 1985, § 30-87; Code 2000, § 114-127; Ord. No. 1337, § VII, 11-9-2006; [Ord. No. 1625, 9-27-2018](#))

Secs. 114-136—114-153. - Reserved.

### DIVISION 3. - USES

#### Sec. 114-154. - Definitions.

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

*Approving authority* means the ~~mayer~~ [City Manager](#) of the city, or his/[her](#) duly authorized representative.

*Biochemical oxygen demand (BOD)* means the quantity of oxygen by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20 degrees centigrade.

*Building sewer* means the extension from the building drain to the public sewer or other place of disposal (also called "house lateral" and "house connection").

*Chemical oxygen demand (COD)* means the measure of the oxygen-consuming capacity of inorganic and organic matter present in the water or wastewater, expressed in mg/l, as the amount of oxygen consumed from a chemical oxidant in a specific test but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

*City* means the City of Bay City, Texas, or any authorized person acting in its behalf.

*Control manhole* means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

*Control point* means a point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

*Director* means the director of public works (including water and wastewater) of the city, or his/[her](#) duly authorized deputy, agent or representative.

*Garbage* means animal and vegetable wastes and residue from the preparation, cooking and dispensing of food; and from handling, processing, storage and sale of food products and produce.

*Industrial waste* means waste resulting from any process of industry, manufacturing, trade or business from the development of any natural resource; or any mixture of the waste with water or normal wastewater, or distinct from normal wastewater.

*Industrial waste charge* means the charge made on those persons who discharge industrial wastes into the city's sewerage system.

*Milligrams per liter (mg/l)* means the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

*Natural outlet* means any outlet into a watercourse, ditch, lake or other body of surface water or groundwater.

*Normal domestic wastewater* means wastewater, excluding industrial wastewater, discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 250 mg/l and the BOD is not more than 250 mg/l.

*Overload* means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

*Person* includes the corporation, organization, government or governmental subdivision or agency, business trust, estate trust, partnership association and any other legal entity.

*pH* means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration.

*Public sewer* means pipe or conduit, carrying wastewater or unpolluted drainage, in which owners of abutting properties shall have the use, subject to control by the city.

*Sanitary sewer* means a public sewer that conveys domestic wastewater or industrial wastes, or a combination of both, and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

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*Slug* means any discharge of water, wastewater or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds, for any period of duration longer than 15 minutes, more than five times the average 24-hour concentration or flows during normal operation.

*Standard methods* means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater, as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

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*Storm sewer* means a public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

*Stormwater* means rainfall or any other forms of precipitation.

*Suspended solids* means solids, measured in mg/l, that either float on the surface of or are in suspension in water, wastewater or other liquids, and which are largely removable by a laboratory filtration device.

*To discharge* includes to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose of, or to allow, permit or suffer any of these acts or omissions.

*Trap* means a device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

*Unpolluted wastewater* means water containing:

- (1) No free or emulsified grease or oil;
- (2) No acids or alkalis;
- (3) No phenols or other substances producing taste or odor in the receiving water;
- (4) No toxic or poisonous substances in suspension, colloidal state or solution;
- (5) No noxious or otherwise obnoxious or odorous gases;
- (6) Not more than an insignificant amount in mg/l each of suspended solids and BOD, as determined by the Texas Commission on Environmental Quality (TCEQ);
- (7) Color not exceeding 50 units, as measured by the platinum-cobalt method of determination, as specified in the "standard methods."

*Waste* means rejected, unutilized or superfluous substances in liquid, gaseous or solid form, resulting from domestic, agricultural or industrial activities.

*Wastewater* means a combination of the water-carried waste from residences, business buildings, institutions and industrial establishments, together with any groundwater, surface water and stormwater that may be present.

*Wastewater facilities* includes all facilities for collection, pumping, treating and disposing of wastewater and industrial wastes.

*Wastewater service charge* means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

*Wastewater treatment plant* means any city-owned facilities, devices and structures used for the receiving, processing and treating of wastewater, industrial waste and sludges from the sanitary sewers.

*Watercourse* means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

(Code 1985, § 30-112; Code 2000, § 114-151)

Sec. 114-155. - Prohibited discharges.

- (a) No person may discharge to the public sewers any waste which, by itself or by interaction with other wastes, may:
- (1) Injure or interfere with wastewater treatment processes or facilities;
  - (2) Constitute a hazard to humans or animals; or
  - (3) Create a hazard in receiving waters of the wastewater treatment plant effluent.
- (b) All discharges shall conform to the requirements of this division.

(Code 1985, § 30-113; Code 2000, § 114-152)

Sec. 114-156. - Chemical discharges.

- (a) No discharge to public sewers may contain:
- (1) Cyanide greater than one mg/l;
  - (2) Fluoride other than that contained in the public water supply;
  - (3) Chlorides in concentrations greater than 250 mg/l;
  - (4) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas; or
  - (5) Substances causing an excessive chemical oxygen demand (COD).
- (b) No waste or wastewater discharged to public waters may contain:
- (1) Strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not;
  - (2) Fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit or (zero and 65 degrees Celsius);
  - (3) Objectionable or toxic substances exerting an excessive chlorine requirement to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials; or
  - (4) Obnoxious, toxic or poisonous solids, liquids or gases in quantities sufficient to violate the provisions of section 114-155(a).

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- (c) No waste, wastewater or other substance may be discharged into the public sewers which has a pH lower than 5.5 or higher than 9.5, or any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel at the wastewater facilities.
- (d) All waste, wastewater or other substance containing phenols, hydrogen sulfide or other taste- and odor-producing substances shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal or other agencies with jurisdiction over discharges to receiving waters.

(Code 1985, § 30-114; Code 2000, § 114-153)

Sec. 114-157. - Heavy metals and toxic materials.

- (a) No discharges may contain concentrations of heavy metals greater than the amount specified in subsection (b) of this section.
- (b) The allowable concentrations of heavy metals, stated in terms of milligrams per liter (mg/l), determined on the basis of individual sampling in accordance with the standard methods" for discharge to inland waters, are as follows:

Metal	Average	Not to Exceed Daily Composite	Grab Sample
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2

Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

(c) No other heavy metals or toxic materials may be discharged into public sewers without a permit from the approving authority, specifying the conditions of pretreatment, concentrations, volumes and other applicable provisions.

(d) Prohibited hazardous materials include, but are not limited to:

- (1) Antimony;
- (2) Beryllium;
- (3) Bismuth;
- (4) Cobalt;
- (5) Molybdenum;
- (6) Uranyl ion;
- (7) Rhenium;
- (8) Strontium;
- (9) Tellurium;
- (10) Herbicides;
- (11) Fungicides; and
- (12) Pesticides.

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(Code 1985, § 30-115; Code 2000, § 114-154)

Sec. 114-158. - Particulate size.

- (a) No person may discharge garbage into public sewers, unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half inch in any dimensions are prohibited.
- (b) The approving authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater.

(Code 1985, § 30-116; Code 2000, § 114-155)

Sec. 114-159. - Stormwater and other unpolluted drainage.

- (a) No person may discharge to the public sanitary sewers:
  - (1) Unpolluted stormwater, surface water, groundwater, roof runoff or subsurface drainage;
  - (2) Unpolluted cooling water;
  - (3) Unpolluted industrial process waters;
  - (4) Other unpolluted drainage; or

(5) Make any new connections from inflow sources.

- (b) In compliance with the Texas Water Quality Act and other statutes, the approving authority may designate storm sewers and other watercourses into which unpolluted drainage described in subsection (a) of this section may be discharged.

(Code 1985, § 30-117; Code 2000, § 114-156)

Sec. 114-160. - Temperature.

No person may discharge liquid or vapor having a temperature higher than 150 degrees Fahrenheit (or 65 degrees Celsius), or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten degrees Fahrenheit or more per hour, or a combined total increase of plant influent temperature to 110 degrees Fahrenheit.

(Code 1985, § 30-118; Code 2000, § 114-157)

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Sec. 114-161. - Radioactive wastes.

- (a) No person may discharge radioactive wastes or isotopes into public sewers without the permission of the approving authority.
- (b) The approving authority may establish, in compliance with applicable state and federal regulations, regulations for the discharge of radioactive wastes into public sewers.

(Code 1985, § 30-119; Code 2000, § 114-158)

Sec. 114-162. - Impairment of facilities.

- (a) No person may discharge into the public sewers any substance capable of causing:
- (1) Obstruction to the flow in sewers;
  - (2) Interference with the operation of the treatment processes of the facilities; or
  - (3) Excessive loading of the treatment facilities.
- (b) Discharges prohibited by subsection (a) of this section include, but are not limited to, materials which exert or cause concentrations of:
- (1) Inert suspended solids greater than 250 mg/l, including, but not limited to:
    - a. Fuller's earth;
    - b. Lime slurries; and
    - c. Lime residues;
  - (2) Dissolved solids greater than 500 mg/l greater than the concentration in the public water supply, including, but not limited to:
    - a. Sodium chloride; and
    - b. Sodium sulfate;
  - (3) Excessive discoloration, including, but not limited to:
    - a. Dye wastes; and
    - b. Vegetable tanning solutions; or

- (4) Biochemical oxygen demand (BOD), Chemical oxygen demand (COD) or chlorine demand in excess of normal plant capacity.
- (c) No person may discharge into the public sewers any substance that may:
- (1) Deposit grease or oil in the sewer lines in such manner as to clog the sewers;
  - (2) Overload skimming and grease-handling equipment;
  - (3) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamendability of the substance to bacterial action; or
  - (4) Deleteriously affect the treatment process due to excessive quantities.
- (d) No person may discharge any substance into the public sewers which is:
- (1) Not amenable to treatment or reduction by the processes and facilities employed; or
  - (2) Amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over the discharge to the receiving waters.
- (e) The approving authority shall regulate the flow and concentration of slugs when they may:
- (1) Impair the treatment process;
  - (2) Cause damage to collection facilities;
  - (3) Incur treatment costs exceeding those for normal wastewater; or
  - (4) Render the waste unfit for stream disposal ~~or industrial use.~~
- (f) No person may discharge into the public sewers solid or viscous substances which may violate subsection (a) of this section if present in sufficient quantity or size, including, but not limited to:
- (1) Ashes;
  - (2) Cinders;
  - (3) Sand;
  - (4) Mud;
  - (5) Straw;
  - (6) Shavings;
  - (7) Metal;
  - (8) Glass;
  - (9) Rags;
  - (10) Feathers;
  - (11) Tar;
  - (12) Plastics;
  - (13) Wood;
  - (14) Unground garbage;
  - (15) Whole blood;
  - (16) Paunch manure;
  - (17) Hair and fleshings;
  - (18) Entrails;
  - (19) Paper products, either whole or ground by garbage grinders;

- (20) Slops;
- (21) Chemical residues;
- (22) Plant residues; or
- (23) Bulk solids.

(Code 1985, § 30-120; Code 2000, § 114-159)

Sec. 114-163. - Compliance with existing authority.

- (a) Unless exception is granted by the approving authority, the public sanitary sewer system shall be used by all persons discharging:
  - (1) Wastewater;
  - (2) Industrial waste; or
  - (3) Polluted liquids.
- (b) Unless unauthorized by the Texas Commission on Environmental Quality (TCEQ), no person may deposit or discharge any waste included in subsection (a) of this section on public or private property in or adjacent to any:
  - (1) Natural outlet;
  - (2) Watercourse;
  - (3) Storm sewer; or
  - (4) Other area within the jurisdiction of the city.
- (c) The approving authority shall verify, prior to discharge, that waste, which is authorized to have discharges, will receive suitable treatment within the provisions of laws, regulations, ordinances, rules and orders of federal, state and local governments.

(Code 1985, § 30-121; Code 2000, § 114-160)

Sec. 114-164. - Approving authority requirements.

- (a) If discharges or proposed discharges to public sewers may deleteriously affect wastewater facilities, processes, equipment or receiving waters; create a hazard to life or health; or create a public nuisance; the approving authority shall require:
  - (1) Pretreatment to an acceptable condition for discharge to the public sewers;
  - (2) Control over the quantities and rates of discharge; and
  - (3) Payment to cover the cost of handling and treating the wastes.
- (b) The approving authority is entitled to determine whether a discharge or proposed discharge is included under subsection (a) of this section.
- (c) The approving authority shall reject wastes when it determines that a discharge or proposed discharge is included under subsection (a) of this section.

(Code 1985, § 30-122; Code 2000, § 114-161)

Sec. 114-165. - Approving authority review and approval.

- (a) If pretreatment or control is required, the approving authority shall review and approve the design and installation of equipment and processes.
- (b) The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances and other laws.
- (c) Any ~~person~~ customer responsible for discharges requiring pretreatment, flow-equalizing or other facilities shall provide and maintain the facilities in effective operating condition at ~~his~~ customer's own expense.

(Code 1985, § 30-123; Code 2000, § 114-162)

Sec. 114-166. - Requirements for grease traps and grease interceptors.

Section I. Applicability and Prohibitions

~~(a) This ordinance sets forth uniform requirements for domestic and nondomestic wastewater users of the Publicly Owned Treatment Works (POTW) for the City of Bay City, as defined in Section II of this Ordinance, and enables the city to comply with all applicable state and federal laws. Discharges requiring a trap include:~~

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- ~~(1) Grease or waste, containing grease in excessive amounts that will impede or stop the flow in the public sewers;~~
- ~~(2) Oil;~~
- ~~(3) Sand;~~
- ~~(4) Flammable wastes; and~~
- ~~(5) Other harmful ingredients.~~

~~(b) This ordinance works together with the city's building permit process through code enforcement and the city's pretreatment and general sewer use regulations to do the following:~~

- ~~• Authorize the implementation of a grease and grit trap/interceptor maintenance program;~~
- ~~• Authorize the establishment of minimum grease and grit trap size requirements and pumping schedules;~~
- ~~• Provide for inspections;~~
- ~~• Monitor compliance and enforcement activities;~~
- ~~• Establish administrative review procedures;~~
- ~~• Require user recordkeeping and reporting;~~
- ~~• Providing for the setting and allocation of fees; Any person responsible for discharges requiring a trap shall, at his own expense and as required by the approving authority:~~

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- ~~(1) Provide equipment and facilities of a type and capacity approved by the approving authority;~~
- ~~(2) Locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection; and~~
- ~~(3) Maintain the trap in effective operating condition.~~

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~~(c) The Public Works Department will have the primary role of administering and enforcing the interdepartmental implementation of this ordinance. Unless otherwise specified in this ordinance, the Director of Public Works, or his/her designated representative, shall administer, implement, and enforce the provisions of this ordinance.~~

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- (d) Facilities generating fats, oils, or greases as a result of food manufacturing, processing, preparation, or food service shall install, use, and maintain appropriate grease traps or interceptors as required in Section II of this Chapter. These facilities include but are not limited to restaurants, food manufacturers, food processors, hospitals, hotels and motels, prisons, nursing homes, and any other facility preparing, serving, or otherwise making any foodstuff available for consumption.
- (e) No user may intentionally or unintentionally allow the direct or indirect discharge of any petroleum oil, nonbiodegradable cutting oil, mineral oil, or any fats, oils, or greases of animal or vegetable origin into the POTW system in such amounts as to cause interference with the collection and treatment system, or as to cause pollutants to pass through the treatment works into the environment.
- (f) Any Grease trap and/or grit trap/interceptor lawfully in existence and in use, at the time of the adoption of this ordinance, shall be permitted to have their use and maintenance continued, if the use and maintenance is in accordance with the original design and no additional wastewater load is added to the trap, above the original design capacity and no hazard to life, health or property is created by such use.
- (g) All references to Grease Traps or Grease Interceptors shall also apply to Grit Traps, as applicable.

#### Section II. Definitions

- (a) Act means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.
- (b) Best management practices (BMPs). Scheduling activities, prohibiting practices, enforcing maintenance procedures, and implementing other management practices to prohibit the introduction of any pollutant into a POTW, as described in 40 CFR Chapter I, Subchapter N, 403.5 (a)(1) and (b).
- (c) BOD means the value of the 5-day test for Biochemical Oxygen Demand, as described in the latest edition of "Standard Methods for the Examination of Water & Wastewater."
- (d) COD means the value of the test for Chemical Oxygen Demand, as described in the latest edition of "Standard Methods for the Examination of Water & Wastewater."
- (e) EPA means the United States Environmental Protection Agency.
- (f) Fats, oils, and greases (FOG) means organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases."
- (g) Food processing/food service establishments (FPSEs) means any establishment that serves, prepares, and handles food whether it is on an occasional, temporary, or permanent basis.
- (h) Generator means any person who owns or operates a grease trap/grease interceptor, or whose act or process produces a grease trap waste.

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- (i) Grease trap or interceptor means a device designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases prior to the wastewater entering the sanitary sewer collection system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection system. Grease traps and interceptors are also referred to herein as "grease traps/interceptors."
- (j) Grease Trap Waste means material collected in and from an grease trap/interceptor in the sanitary sewer service line of a commercial, institutional, or industrial food service or processing establishment, including the solids resulting from de-watering processes.
- (k) Grit means sediment such as sand, gravel, cinders, or other heavy materials.
- (l) Indirect Discharge or Discharge means the introduction of pollutants into a POTW from any non-domestic source.
- (m) Interference means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, or is a cause of a violation of the city's TPDES permit.
- (n) pH means the measure of the relative acidity or alkalinity of water and is defined as the negative logarithm (base 10) of the hydrogen ion concentration.
- (o) POTW or Publicly Owned Treatment Works means a treatment works which is owned by a state or municipality as defined by section 502(4) of the Clean Water Act. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes all sewers, pipes and other conveyances that convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works (City of Bay City). For purposes of this ordinance, the terms "sanitary sewer system", "POTW", "City", or "City of Port Lavaca" may be used interchangeably.
- (p) TCEQ means the Texas Commission on Environmental Quality, and its predecessor and successor agencies.
- (q) Transporter/Hauler means a person who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 TEXAS ADMINISTRATIVE CODE §312.142, and is registered as a licensed grease and/or grit trap transporter/hauler with the City of Bay City.
- (r) TSS means the value of the test for Total Suspended Solids, as described in the latest edition of "Standard Methods for the Examination of Water & Wastewater."
- (s) User means any person, including those located outside the jurisdictional limits of the city, who contributes, causes, or permits the contribution or discharge of wastewater into the POTW, including persons who contribute such wastewater from mobile sources.

### Section III. Installation and Maintenance Requirements

- (a) Installations

### 1. New Facilities.

- i. Food processing or food service facilities (FPSEs) which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist, shall be required to design, install, operate, maintain, and register with the City a grease trap/interceptor in accordance with the currently adopted plumbing codes and other applicable ordinances. Grease traps/interceptors shall be installed and inspected prior to issuance of a certificate of occupancy.
- ii. All permanent car washes and wash bays which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a car wash or wash bay, where such facility did not previously exist, shall be required to design, install, operate and maintain and register with the City a grit trap/interceptor in accordance with the currently adopted plumbing codes and other applicable ordinances. Grit traps/interceptors shall be installed and inspected prior to issuance of a certificate of occupancy.

### 2. Existing Facilities.

- i. Existing grease and/or grit traps/interceptors must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with these Model Standards, unless specified in writing and approved by the POTW.

### 3. Waivers.

- i. Waivers to new and existing facilities.
  - 1) Based upon a request by and consultation with the FPSE, the City may determine that the new FPSE or and existing FSPE is not a potential significant FOG discharger, in which case the City may grant a waiver from the required grease trap/interceptor license and installation.
  - 2) With the designation of a non-significant discharger waiver, the FPSE is required to implement FOG Best Management Practices (BMPs) and to install a wastewater discharge sample port for jar method grab sampling at the facility's own expense. The sample port shall be installed with ease of accessibility for city monitoring purposes, at the facility's own expense.
- ii. Existing facilities with space constraint waivers.
  - 1) The City may grant an exception to requiring FPSE or other entity to install a grease trap/interceptor if there is no feasible installation location, for example, infeasibility due to historical landmarks.
  - 2) In the event of this space-constraint type waiver, the city will change an annual waiver fee, the FPSE discharger must implement FOG BMPs; and the FPSE must install a wastewater discharge sample port at the facility's own expense. The sample port shall be installed with ease of accessibility for city monitoring.





pumping frequency of their grease trap/interceptor. The POTW may grant an extension for required cleaning frequency on a case-by-case basis when:

- a. The grease trap/interceptor owner/operator has demonstrated the specific trap/interceptor will produce an effluent, based on defensible analytical results, in consistent compliance with established local discharge limits such as BOD, TSS, FOG, or other parameters as determined by the POTW, or
  - b. Less than twenty-five (25) percent of the wetted height of the grease trap or grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils, or greases.
- 4) In any event, a grease trap and grease interceptor shall be fully evacuated, cleaned, and inspected at least once every 180 days.

v. Manifest Requirements.

- 1) Each pump-out of a grease trap or interceptor must be accompanied by a manifest to be used for record keeping purposes.
- 2) Persons who generate, collect and transport grease waste shall maintain a record of each individual collection and deposit. Such records shall be in the form of a manifest. The manifest shall include:
  - a. Name, address, telephone, and commission registration number of transporter;
  - b. Name, signature, address, and phone number of the person who generated the waste and the date collected;
  - c. Type and amount(s) of waste collected or transported;
  - d. Name and signature(s) of responsible person(s) collecting, transporting, and depositing the waste;
  - e. Date and place where the waste was deposited;
  - f. Identification (permit or site registration number, location, and operator) of the facility where the waste was deposited;
  - g. Name and signature of facility on-site representative acknowledging receipt of the waste and the amount of waste received;
  - h. The volume of the grease waste received; and
  - i. A consecutive numerical tracking number to assist transporters, waste generators, and regulating authorities in tracking the volume of grease transported.
- 3) Manifests shall be divided into five parts and records shall be maintained as follows:

- a. One part of the manifest shall have the generator and transporter information completed and be given to the generator at the time of waste pickup.
  - b. The remaining four parts of the manifest shall have all required information completely filled out and signed by the appropriate party before distribution of the manifest.
  - c. One part of the manifest shall go to the receiving facility.
  - d. One part shall go to the transporter, who shall retain a copy of all manifests showing the collection and disposition of waste.
  - e. One copy of the manifest shall be returned by the transporter to the person who generated the wastes within 15 days after the waste is received at the disposal or processing facility.
  - f. One part of the manifest shall go to the local authority.
- 4) Copies of manifests returned to the waste generator shall be retained for five years and be readily available for review by the POTW.

vi. Alternative Treatment:

- 1) A person commits an offense if the person introduces, or causes, permits, or suffers the introduction of any surfactant, solvent, or emulsifier into a grease trap. Surfactants, solvents, and emulsifiers are materials which allow the grease to pass from the trap into the collection system, and include but are not limited to enzymes, soap, diesel, kerosene, terpene, and other solvents.
- 2) It is an affirmative defense to an enforcement of Section III, (f) (1) that the use of surfactants or soaps is incidental to normal kitchen hygiene operations.
- 3) Bioremediation media may be used with the POTW's approval if the person has proved to the satisfaction of the POTW that laboratory testing which is appropriate for the type of grease trap to be used has verified that:
  - a. The media is a pure live bacterial product which is not inactivated by the use of domestic or commercial disinfectants and detergents, strong alkalis, acids, and/or water temperatures of 160F (71C).
  - b. The use of the media does not reduce the buoyancy of the grease layer in the grease trap and does not increase the potential for oil and grease to be discharged to the sanitary sewer.
  - c. The use of the bioremediation media does not cause foaming in the sanitary sewer.
  - d. The BOD, COD, and TSS discharged to the sanitary sewer after use of the media does not exceed the BOD, COD, and TSS which would be discharged if the product were not being used and the grease trap was being properly maintained. pH levels must be between 5 and 11.

- 4) All testing designed to satisfy the criteria set forth in Section III (f) (3) shall be scientifically sound and statistically valid. All tests to determine oil and grease, TSS, BOD, COD, pH, and other pollutant levels shall use appropriate tests which have been approved by the Environmental Protection Agency and the Texas Commission on Environmental Quality and which are defined in Title 40, Code of Federal Regulations, Part 136 or Title 30, TEXAS ADMINISTRATIVE CODE §319.11. Testing shall be open to inspection by the POTW and shall meet the POTW's approval.

#### Section IV. Schedule of Fees

- (a) When the City grants a trap waiver due to space constraints and/or historical landmarks and requires a waiver fee, the FPSE shall pay an annual waiver fee of \$200.00. The City Council shall make the final decisions with regard to authorizing a waiver.

#### Section V. Schedule of Penalties

- (a) If the City determines that a generator is responsible for a blockage of a collection system line the generator shall owe a civil penalty of \$1,000 for the first violation, \$1,500 for a second violation, and \$2,000 for the third violation within a two-year period. Continuous violations shall result in an increase in penalty by \$500 and may also result in termination of services.
- (b) Any person violating any of the provisions of this Ordinance shall be subject to a written warning for the first violation, a \$1,000 civil penalty for the second violation, a \$1,500 civil penalty for the third violation, and a \$2,000 civil penalty for the fourth violation within a two- year period. Consistent violations will result in a \$500 increase in civil penalty and may result in termination of service.

(Code 1985, § 30-124; Code 2000, § 114-163)

#### Sec. 114-167. - Requirements for building sewers.

Any ~~person~~customer responsible for discharges through a building sewer carrying industrial wastes shall, at ~~his~~the customer's own expense and as required by the approving authority:

- (1) Install an accessible and safely located control manhole;
- (2) Install meters and other appurtenances to facilitate observation sampling and measurement of the waste;
- (3) Install safety equipment and facilities, including but not limited to, ventilation, steps, etc.) where needed; and
- (4) Maintain the equipment and facilities.

(Code 1985, § 30-125; Code 2000, § 114-164)

#### Sec. 114-168. - Sampling and tests.

- (a) Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the sewage works and determining in the existence of hazards to health, life, limb and property.

(Note: The particular analysis involved will determine whether a 24-hour composite sample from all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, biochemical oxygen demand (BOD) and suspended solids analyses are obtained from 24-hour composites of all outfalls. Where applicable, 16-hour, eight-hour or some other period may be required. Periodic grab samples are used to determine pH and oil and grease).

- (b) Examination and analysis of the characteristics of waters and wastes required by this division shall be:
  - (1) Conducted in accordance with the latest edition of the standard methods; and
  - (2) Determined from suitable samples taken at the control manhole provided or other control point authorized by the city.
- (c) Biochemical oxygen demand (BOD) and suspended solids shall be determined from composite sampling, except to detect unauthorized discharges.
- (d) The city shall determine which users or classes of users may contribute wastewater which is of greater strength than normal domestic wastewater. All users or classes of users so identified shall be sampled for flow, BOD, TSS and pH as directed by the City ~~least annually~~.
- (e) The city may select an independent firm or laboratory to determine flow, BOD and suspended solids if necessary. Flow may alternately be determined by water meter measurements if no other flow device is available and no other source of raw water is used.

(Code 1985, § 30-126; Code 2000, § 114-165)

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Sec. 114-169. - User charge system.

- (a) Persons making discharges of industrial waste into the city's system shall pay a charge to cover all costs of collection and treatment.
- (b) When discharges of any waste into the city's system are approved by the approving authority, the city or its authorized representative shall enter into an agreement or arrangement providing:
  - (1) Terms of acceptance by the city;
  - (2) Payment by the person making the discharge, in accordance with the sewer user charge system, as established in subsection (d) of this section;
  - (3) New sewer construction and sewer connection procedures and requirements shall be in accordance with chapter 98, subdivisions and section 22-266 (the plumbing code);
  - (4) A sewer application approved with connection fee paid; and
  - (5) Construction of sewer connections shall be approved by city inspectors prior to sewer use.
- (c) The city will apply excess revenues collected from users of the wastewater treatment system to the wastewater system depreciation reserve.
- (d) The user charge system shall be computed annually, based on the following formula:

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$$C_u = (C_t \div V_t) \times V_u$$

The symbols in the equation of this subsection are defined as follows:

C<sub>u</sub> = User's charge for operation and maintenance costs of wastewater facilities of the city.

$C_c$  = Total operation and maintenance costs of wastewater facilities of the city.

$V_u$  = Total volume contributed from all users.

$V$  = Total volume contributed from the user.

The annual rate, established by the formula, is set forth in division 5 of this article and will become effective on the 60th day following the close of the city's fiscal year.

(Code 1985, § 30-127; Code 2000, § 114-166)

Sec. 114-170. - Continuation of discharge of industrial waste.

A ~~person~~-customer discharging industrial wastes into public sewers prior to the effective date of the ordinance from which this division is derived may continue without penalty, so long as ~~he~~-the customer does not increase the quantity or quality of discharge without the permission of the approving authority.

(Code 1985, § 30-128; Code 2000, § 114-167)

Sec. 114-171. - Conditions of permits.

- (a) The city may grant a permit to discharge to persons meeting all requirements of the savings clause, provided that the person:
- (1) Submit an application within 60 days after the effective date of the ordinance from which this division is derived on forms supplied by the approving authority;
  - (2) Secure approval by the approving authority of plans and specifications for pretreatment facilities when required; and
  - (3) Has complied with all the requirements for agreements or arrangements, including but not limited to provisions for the:
    - a. Payment of charges;
    - b. Installation and operation of pretreatment facilities; and
    - c. Sampling and analysis to determine quantity and strength; and
  - (4) Provides a sampling point subject to the provisions of this division and approval of the approving authority.
- (b) A person applying for a new discharge shall:
- (1) Meet all conditions of subsection (a) of this section; and
  - (2) Secure a permit prior to discharging any waste.

(Code 1985, § 30-129; Code 2000, § 114-168)

Sec. 114-172. - Power to enter property.

- (a) The director and other duly authorized employees of the city, bearing proper credentials and identification, are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this division.
- (b) Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security and fire protection.

- (c) Except when caused by negligence or failure of the person to maintain safe conditions, the city shall indemnify the company against loss or damage to its property for personal injury or property damage asserted against the person and growing out of the sampling operation.
- (d) The director and other duly authorized employees of the city, bearing proper credentials and identification, are entitled to enter all private properties through which the city holds a negotiated easement for the purposes of:
  - (1) Inspection, observation, measurement, sampling or repair;
  - (2) Maintenance of any portion of the sewerage system lying within the easements; and
  - (3) Conducting any other authorized activity.

All activities shall be conducted in full accordance with the terms of the negotiated easement pertaining to the private property involved.

- (e) No person acting under the authority of this provision may inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point, having a direct bearing on the kind and source of discharge to the public sewers.

(Code 1985, § 30-130; Code 2000, § 114-169)

**State Law reference**— Entry powers and inspections, V.T.C.A., Water Code §§ 26.171, 26.173.

Sec. 114-173. - Authority to disconnect service.

- (a) The city may terminate water and wastewater disposal service and disconnect an industrial customer from the system when:
  - (1) Acids or chemicals damaging to sewer lines or treatment processes are released to the sewer, causing accelerated deterioration of these structures or interfering with the proper conveyance and treatment of wastewater;
  - (2) A governmental agency informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to a watercourse, and it is found that the customer is delivering wastewater to the city's system that cannot be sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment; or
  - (3) The customer:
    - a. Discharges industrial waste or wastewater that is in violation of the permit issued by the approving authority;
    - b. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system;
    - c. Fails to pay monthly bills for water and sanitary sewer services when due; or
    - d. Repeats a discharge of prohibited wastes to public sewers in violation of sections 114-155 through 114-162.
- (b) If service is disconnected pursuant to subsection (a)(2) of this section, the city shall:
  - (1) Disconnect the customer;
  - (2) Supply the customer with the governmental agency's report and provide the customer with all pertinent information; and
  - (3) Continue disconnection until such time as the industrial customer provides pretreatment/additional treatment or other facilities designed to remove the objectionable characteristics from ~~his~~-customer's wastes.

(Code 1985, § 30-131; Code 2000, § 114-170)

Sec. 114-174. - Notice.

The city shall serve persons discharging in violation of this division with written notice, stating the nature of the violation and providing a reasonable time limit for satisfactory compliance.

(Code 1985, § 30-132; Code 2000, § 114-171)

Sec. 114-175. - Continuing prohibited discharges.

No person may continue discharging in violation of this division beyond the time limit provided in the notice.

(Code 1985, § 30-133; Code 2000, § 114-172)

Sec. 114-176. - Violations and penalties.

- (a) Any person violating any of the provisions of this division is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$2,000.00. Each day a violation of this division continues shall be a separate offense.
- (b) The city council, by majority vote, may direct legal counsel to pursue an injunction or writ of mandamus or other valid legal remedy in district, state or appellate courts to enforce this division.
- (c) In addition to proceeding under the authority of subsection (a) of this section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under the authority of statutes or other ordinances against a person's continuing prohibited discharges.

(Code 1985, § 30-134; Code 2000, § 114-173)

Sec. 114-177. - Failure to pay.

In addition to sanctions provided for by this division, the city is entitled to exercise sanctions provided for by the other ordinances of the city for failure to pay the bill for water and sanitary sewer service when due.

(Code 1985, § 30-135; Code 2000, § 114-174)

Sec. 114-178. - Penalty for criminal mischief.

The city may pursue all criminal and civil remedies to which it is entitled under the authority of statutes and ordinances against a person negligently, willfully or maliciously causing loss by tampering with or destroying public sewers or treatment facilities.

(Code 1985, § 30-136; Code 2000, § 114-175)

**State Law reference**— Criminal mischief, V.T.C.A., Penal Code § 28.03.

Secs. 114-179—114-209. - Reserved.

DIVISION 4. - REPAIR OF SANITARY SEWER LEAKS ON PRIVATE PROPERTY

Sec. 114-210. - Responsibility and application.

- (a) Maintaining the integrity of the city's sanitary sewer system shall be the responsibility of the director of public works or his her designee for the city.
- (b) This division applies to all customer sewer service lines on private property which flow into public lines in city streets, alleys and easements, including, but not limited to single-family or duplex residences, mobile homes and/or trailer parks, apartments, places of business, schools, hospitals, churches, structures of any kind, vacant buildings or vacant land.
- (c) The customer shall be responsible for the installation, maintenance and repair of the sewer service line from the foundation of the house or commercial building to the sewer line owned by the city.

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(Code 1985, § 30-141; Code 2000, § 114-201)

Sec. 114-211. - Definitions.

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

*Infiltration* (as defined by the Federal Environmental Protection Agency) means the water entering a sewer system and service connections from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls.

*Inflow* (as defined by the Federal Environmental Protection Agency) means the water discharged into a sewer system and service connections from such sources as, but not limited to, roof leaders, cellars, swimming pool and/or spa drains, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers and combined sewers, catchbasins, stormwaters, surface runoff, and street washwaters or drainage.

*Sanitary sewer* means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

Sewer service line means the sewer from the foundation of the house or commercial building to the sewer line owned by the city.

*Storm sewer* means a public sewer which carries stormwater and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

(Code 1985, § 30-142; Code 2000, § 114-202)

Sec. 114-212. - Customer Service Inspection prior to connection, reconnection or transfer of service.

Prior to the original connection, reconnection or transfer of water and/or sewer service to a tenant or property owner, the city at its option shall inspect-perform a Customer Service Inspection of the customer's private sanitary-sewer-service-line-system and verify the integrity thereof. Any defects discovered in the private line shall be repaired by the property owner or his her agent prior to obtaining the original connection, reconnection or transfer of city water and/or sewer service.

(Code 1985, § 30-143; Code 2000, § 114-203)

Sec. 114-213. - Notification to property owners.

(a) The public works department of the city will notify in writing by registered mail, return receipt requested, each property owner on whose property a source of inflow or infiltration of water into the city's sanitary sewer system exists, as well as the nature and location of the sources. The property owner shall, within ~~ten (10) three~~ calendar ~~months-days~~ of date of notification, have the sources repaired at ~~his-the property owner's~~ expense.

~~(b) A reminder notice will be sent in one month if the repairs have not been satisfactorily completed.~~

~~(eb)~~ A cut-off notice will be sent ~~on the eleventh (11<sup>th</sup>) day in two months~~ if the repairs have not been satisfactorily completed.

~~(ec)~~ Penalties provided for in this division ~~may-shall~~ be enforced ~~as set forth in this ordinance at the end of the third calendar month from the original notice.~~

(Code 1985, § 30-144; Code 2000, § 114-204)

Sec. 114-214. - Repairs by licensed plumber or homeowner; inspection and approval or disapproval by city.

(a) If the line in question is vitreous clay pipe and cannot be satisfactorily repaired, the property owner may be required to replace the entire private clay sewer service line with PVC pipe Schedule 40.

(b) All repairs must be made by a plumber licensed by the state or by a resident property owner. A resident homeowner may install or maintain plumbing and/or sewer equipment within ~~his-the property owner's~~ own property boundaries, provided that the work is done by ~~himself-the property owner~~ and used exclusively by ~~him-or-his-the property owner and the property owner's~~ family. Such privilege does not convey the right to violate any provision of this Code nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees therefor. Both the plumber or owner must have a valid city plumbing permit for these specific repairs prior to work commencing. (See section 22-266, licensing and regulation of plumbers.)

(c) After the repair has been completed and before it has been covered, the city plumbing inspection department shall be notified to inspect and approve its adequacy and workmanship. If the city plumbing inspector leaves a green tag signifying a satisfactory repair, the plumber or owner may replace the cover.

(d) However, if the city plumbing inspector leaves a red tag, the plumber or owner must contact the designated city official on the red tag and correct the repairs as specified and then notify the city plumbing inspection department to reinspect the corrected repairs. No cover may be replaced until a green tag is attached to the repairs by the city plumbing inspection department. Otherwise, owner and/or plumber shall be required to excavate, and the city shall reinspect the repairs and if still defective, turn off water and/or sewer service.

(Code 1985, § 30-145; Code 2000, § 114-205)

Sec. 114-215. - Penalties for failure to make repairs.

(a) Should the property owner fail to make the necessary repairs within the ~~three-month~~~~ten (10) day~~ period as set out in section 114-213, the city shall have the option of thereafter assessing a surcharge fee to ~~his-the property owner's~~ monthly wastewater charge (the charge shall be determined by the city's existing formula for calculating domestic wastewater charges with exclusion of the 25,000 gallon maximum charge) or terminating water and/or sewer service to the property.

(b) If after exercising reasonable diligence, the city is unable to locate the property owner or ~~his/her~~ agent or the property owner or ~~his/her~~ agent refuses to make the necessary repairs, the city or its agent shall have the right to go on the land or property upon which the source of inflow or infiltration exists and make such repairs and inspection as provided in section 114-214. The owner of the

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property shall be liable to the city for the cost of such work and shall pay such cost upon demand, which cost may be included upon the property owner's next monthly wastewater charge with a reasonable service charge added for each month the bill remains unpaid or the city may cut off the water and/or sewer upon 30 days written notice to the customer.

~~(c) Within 30 days after notification that the water and/or sewer will be cut off, the customer may:~~

~~(1) Arrange with the public works department to extend his payout period without interest up to 60 months with such monthly payment added to his regular water/sewer bill; or~~

~~(2) Appeal to the city council for a hardship variance. Such appeal shall be submitted in writing to the mayor's City Manager's office for hearing at a regular scheduled council meeting.~~

(d) If the property owner is unknown or does not pay the charge, the city shall file a lien upon the land for the cost of the repair and a fine for the extraneous water disposed of through the city's sanitary sewer system and wastewater treatment plant.

(Code 1985, § 30-146; Code 2000, § 114-206)

Sec. 114-216. - Appeals.

Appeals shall be according to the procedure as provided in section 2-267.

(Code 1985, § 30-147; Code 2000, § 114-207)

Secs. 114-217—114-240. - Reserved.

DIVISION 5. - USER CHARGE SYSTEM

Sec. 114-241. - Purpose and intent.

It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the citizens of the city to collect charges from all users who contribute wastewater to the city's public-owned treatment works (POTW). The proceeds of such charges so derived will be used for the purposes of operating, maintaining and the administration of the public-owned treatment works (POTW).

(Code 1985, § 30-155; Code 2000, § 114-231)

Sec. 114-242. - Definitions.

Unless the context specifically indicates otherwise, the meaning of the terms used in this division shall be as defined in this section, in section 114-154 and/or as follows:

*Commercial user* means all retail stores, restaurants, office buildings, laundries and other private business and service establishments.

*Director of public works* means the director of public works (including water and sewer) of the city or his/her duly authorized deputy, agent or representative.

*Governmental user* includes legislative, judicial, administrative and regulatory activities of federal, state and local government.

*Industrial user* shall include any nongovernmental, nonresidential user of publicly owned treatment works, which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions:

- (1) Division A: Agriculture, forestry and fishing;
- (2) Division B: Mining;
- (3) Division D: Manufacturing;
- (4) Division E: Transportation, communication, electric, gas and sanitary; and
- (5) Division I: Services.

*Institutional user* includes social, charitable, religious and educational activities, such as schools, churches, hospitals, nursing homes, penal institutions and similar institutional users.

*Multifamily user* means any contributor to the city's treatment works whose lot, parcel of real estate or building is used for domestic purposes by two or more users.

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*Operation, maintenance and administrative* means those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and for which such works were designed and constructed. The term "operation and maintenance" includes the term "replacement," as defined in this section.

*Private water meter* means a water-volume measuring and recording device, furnished, maintained and/or installed by or for a user and approved by the director of public works or his/her duly authorized deputy, agent or representative.

*Public-owned treatment works (POTW)* means any devices and systems for the storage, treatment, transport, recycling or reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These devices and systems include:

- (1) The intercepting sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and their appurtenances;
- (2) Extensions, improvements, remodeling, additions and alterations thereof;
- (3) Elements essential to provide a reliable recycled supply, such as standby treatment units and clear well facilities; and
- (4) Any works, including the site acquisition of land that will be an integral part of the treatment process or is used for ultimate disposal of residue resulting from such treatment (including land for composting sludge, temporary storage of such compost and land used for the storage of treated wastewater in land treatment systems before land application); or
- (5) Any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined stormwater and sanitary sewer systems.

*Public water meter* means a water-volume measuring and recording device furnished, maintained and installed by the city.

*Replacement* means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

*Residential user* means any contributor to the city's treatment works whose lot, parcel of real estate or building is used for domestic dwelling purposes only.

*Shall* is mandatory; *may* is permissive.

*Useful life* means the estimated period during which a treatment works will be operated.

*User charge* means that portion of the total wastewater service charge (billing) which is levied in a proportional and adequate manner for the cost of operation, maintenance, administration and replacement of the wastewater treatment works.

*User charge calculation* means the user charge system rate of the city, as calculated under section 114-169 and this division, exclusive of any monies for debt service or funds required to be generated by the wastewater system in addition to operation, maintenance and administration costs.

(Code 1985, § 30-156; Code 2000, § 114-232)

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Sec. 114-243. - Disposition of revenues.

- (a) The revenues collected, as a result of the user charges levied, shall be credited to the utility general sewer receipts account, a separate nonlapsing account for the operation, maintenance and administration of the wastewater collection and treatment systems.
- (b) Fiscal year-end balances in the operation, maintenance and administration sewer receipts fund shall be used for no other purposes than those designated. Monies which have been transferred from other sources to meet temporary shortages in the operation, maintenance and administration funds shall be returned to their respective accounts upon the appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge rates shall be adjusted such that the transferred monies will be returned to their respective accounts within six months of the fiscal year in which the monies were borrowed. The city will apply excess revenues collected or deficits associated with the user charge to the cost of the operation, maintenance and administration attributable to that class for the next year and adjust the rate accordingly.
- (c) Each user account of the wastewater treatment system will be notified at least annually, in conjunction with a regular sewer bill of the rate and that portion of the sewer bill user charges which are attributable to the operation, maintenance and administrative costs of the wastewater treatment system.

(Code 1985, § 30-157; Code 2000, § 114-233)

Sec. 114-244. - Rates.

- (a) Each user shall pay for the services provided by the public-owned treatment works (POTW) based on ~~his~~ the customer's use of the treatment works, as determined by water meter readings (or other appropriate volume determinations) and then calculated in accordance with the user charge calculation in section 114-169(d) and approved by the director of public works or his/her duly authorized deputy, agent or representative.
- (b) For residential and multiresidential units, industrial, institutional, governmental and commercial users, monthly user charges will be based on actual water usage **(in accordance with the user charge calculation)**. If a residential or multiresidential unit, commercial, institutional or industrial user has a consumptive use of water or, in some other manner, uses water which is not discharged into the POTW, the user charge for that contributor may be based on readings of a wastewater meter or separate water meter (or other appropriate volume determination), installed and maintained at the user's expense and approved by the director of public works or his/her duly authorized deputy, agent or representative.
- (c) Each user shall pay a user charge rate for the operation, maintenance and administrative costs. Such rate shall be established annually in an amendment to sections 114-57, 114-134 and 114-135, establishing new utility rates.
- (d) For those users whose wastewater has a greater strength than normal domestic sewage, a surcharge, in addition to the normal user charge, will be collected (Regulatory Citation, 40 CFR part 35.2140, section 301, of the Act). The surcharge for operation, maintenance and replacement shall be proportional to the strength of normal domestic wastewater.
- (e) Any user which discharges any toxic pollutants (as defined in sections 114-154, 114-156 and 114-157) which cause an increase in the cost of managing the effluent of the sludge from the public-

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owned treatment works (POTW), or any user which discharges any substance which, singly or by interaction with other substances, causes identifiable increases in the cost of the operation, maintenance or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be determined by the director of public works or his/her duly authorized deputy, agent or representative.

- (f) The user charge rates established by this section shall apply to all users of the public-owned treatment works (POTW).

(Code 1985, § 30-158; Code 2000, § 114-234)

Sec. 114-245. - Monthly report submitted by certain users.

All users contributing more than 1,500,000 gallons per month and/or whose water strength is greater than normal domestic wastewater shall prepare and file with the director of utilities a report that shall include pertinent data relating to the user's wastewater characteristics, including the methods of sampling and measurement, to obtain these data; and these data shall be used to calculate the user charge for that user. The director of public works or his/her duly authorized deputy, agent or representative shall have the right to gain access to the user's waste stream and ~~take his own samples~~ collect samples as necessary. Should the director of public works do so, and should the results be substantially different, as determined by the director of public works, from the data submitted by the user, the user charge for that user shall be revised for the next available billing cycle/period.

(Code 1985, § 30-159; Code 2000, § 114-235)

Sec. 114-246. - Appeals; review by ~~mayor~~ City Manager.

- (a) Any user who feels ~~his-the~~ user charge is unjust, in error or inequitable shall make appeal by written application to the office of the ~~mayor~~ City Manager, requesting a review of ~~his-the~~ user charge. Such written request shall show the actual or estimated average flow and/or strength of his wastewater in comparison with the value upon which the charge is currently based, including how the measurements or estimates were made.
- (b) Review of the request shall be made by the ~~mayor~~ City Manager of the city or his/her duly authorized deputy, agent or representative; and, if substantiated, the user charges for that user shall be recomputed, based on the revised flow and/or strength data, and the charges shall be applicable to the next billing cycle/period.

(Code 1985, § 30-160; Code 2000, § 114-236)

Sec. 114-247. - Annual review of charges.

- (a) The director of public works and the city finance director will review the user charges at least annually (Regulatory Citation, 40 CFR 35.2140(A), (B)) and recommend, based on the "user charge calculations," to the city council revisions necessary to ensure that adequate revenues are generated to pay the operation, maintenance and administrative costs; and that the system continues to provide for the proportional distribution of operation, maintenance and administrative costs, including replacement costs among users and user classes.
- (b) Upon approval of the user charge rate by the city council, the director of public works shall notify each user (by public notice or other appropriate method) (Regulatory Citation, 40 CFR 35.2140) of any revisions to ~~his-the~~ user charge rate for the operation, maintenance and administrative costs, including the replacement of the public-owned treatment works (POTW).

(Code 1985, § 30-161; Code 2000, § 114-237)

Sec. 114-248. - Severability; precedence of this division.

If any provision, section, subsection, sentence, clause or phrase of this division, or the application of to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining proportions or set of circumstances shall not be affected hereby, it being the intent of the city council in adopting this division that no portion thereof or provisions or regulation contained in this section shall become inoperative or fail by reason of an unconstitutionality; and all provisions of this division are declared to be reasonable. This user charge system division shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of sections 204(b)(1)(A) and 35.2140 of the Federal Clean Water Act.

(Code 1985, § 30-162; Code 2000, § 114-238)

Secs. 114-249—114-274. - Reserved.

#### ARTICLE V. - CROSS CONNECTION CONTROL POLICY

##### DIVISION 1. - GENERALLY

Sec. 114-275. - Definitions.

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

*Air gap* means a physical separation between the ~~free flowing~~free-flowing discharge end of a potable water supply pipeline and an open or nonpressure receiving vessel. An approved air gap shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel; in no case less than one inch. ~~(2.54 cm).~~

*Approved.*

- (1) The term "approved," as used in this article in reference to a water supply, means a water supply that has been approved by the health agency having jurisdiction.
- (2) The term "approved," as used in this article in reference to an air gap, a double check\_valve assembly, a reduced pressure principle backflow prevention assembly or other backflow prevention assemblies or methods means an approval by the administrative authority having jurisdiction.

*Auxiliary water supply* means any water supply on or available to the premises other than the purveyor's approved public water supply will be considered as an auxiliary water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source such as a well, spring, river, stream, harbor, etc., or used waters or industrial fluids. These waters may be contaminated or ~~polluted~~polluted, or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

*Backflow* means the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of the potable supply of water from any source or sources. See *Backsiphonage* and *Backpressure*.

*Backpressure* means any elevation of pressure in the downstream piping system (by pump, elevation of piping, or stream and/or air pressure) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow.

*Backsiphonage* means a form of backflow due to a reduction in system pressure which causes a subatmospheric pressure to exist at a site in the water system.

*Backflow preventer* means an assembly or means designed to prevent backflow.

*Chief building inspector-executive officer of the public water system* means the person in charge and invested with the authority and responsibility for the implementation of an effective cross connection control program and for the enforcement of the provisions of this article.

*Contamination* means an impairment of the quality of the water which creates an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids, waste, etc.

*Cross connection* means any unprotected actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross connections.

- (1) The term "direct cross connection" means a cross connection which is subject to both backsiphonage and backpressure.
- (2) The term "indirect cross connection" means a cross connection which is subject to backsiphonage only.

*Cross connection control by containment.* The term "service protection" means the appropriate type or method of backflow protection at the service connection, commensurate with the degree of hazard of the consumer's potable water system.

*Cross connection, controlled,* means a connection between a potable water system and a nonpotable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

*Double check valve backflow prevention assembly* means an assembly composed of two independently acting, approved check valves, including tightly closing resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks. (See Specifications, for additional details.) This assembly shall only be used to protect against a nonhealth hazard (i.e., pollutant).

*Hazard, degree of,* means either a [pollutional pollution](#) (nonhealth) or contamination (health) hazard and is derived from the evaluation of conditions within a system.

*Hazard, health,* means an actual or potential threat of contamination of a physical or toxic nature to the public potable water system or the consumer's potable water system that would be a danger to health.

*Hazard, plumbing,* means an internal or plumbing-type cross connection in a consumer's potable water system that may be either a [pollutional pollution](#) or a contamination type hazard. This includes, but is not limited to cross connections to toilets, sinks, lavatories, wash trays and lawn sprinkling systems. Plumbing type cross connections can be located in many types of structures, including homes, apartment houses, hotels and commercial or industrial establishments. Such a connection, if permitted to exist, must be properly protected by an appropriate type of backflow prevention assembly.

*Hazard, [pollutional pollution](#),* means an actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system but which would not constitute a health or system hazard, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to tile system or its appurtenances.

*Hazard, system,* means an actual or potential threat of severe danger to the physical properties of the public or the consumer's potable water system or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

*Industrial fluids* means any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration which would constitute a health, system,

~~pollutional~~pollution or plumbing hazard if introduced into an approved water supply. The term "industrial fluids may include, but not be limited to:

- (1) Polluted or contaminated used waters;
- (2) All types of process waters and "used waters" originating from the public potable water system which may deteriorate in sanitary quality;
- (3) Chemicals in fluid form;
- (4) Plating acids and alkalies;
- (5) Circulated cooling waters connected to an open cooling tower and/or cooling waters that are chemically or biologically treated or stabilized with toxic substances;
- (6) Contaminated natural waters such as from wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems, etc.; and
- (7) Oils, gases, ~~glycerine~~glycerin, paraffins, caustic and acid solutions and other liquid and gaseous fluids used industrially, for other processes, or for firefighting purposes.

*Pollution* means an impairment of the quality of the water to a degree which does not create a hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such waters for domestic use.

*Public water system* means a system for the provision of water to the public as defined in Title 30 of the Texas Administrative Code, Section 290.38.

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*Reduced pressure principle backflow prevention assembly* means an assembly containing two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located resilient seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly. This assembly is designed to protect against a nonhealth (i.e., pollutant) or a health hazard (i.e., contaminant). This assembly shall not be used for backflow protection of sewage or reclaimed water.

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*Water, nonpotable*, means a water supply which has not been approved for human consumption by the health agency having jurisdiction.

*Water, potable*, means any public potable water supply which has been investigated and approved by the health agency. The system must be operating under a valid health permit. In determining what constitutes an approved water supply, the health agency has final judgment as to its safety and potability.

*Water, service connection* means the terminal end of a service connection from the public potable water system (i.e., where the water purveyor may lose jurisdiction and sanitary control of the water at its point of delivery to the consumer's water system). If a water meter is installed at the end of (the service connection, then the service connection means the downstream end of the water meter.

*Water, used*, means any water supplied by a water purveyor from a public potable water system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water purveyor.

(Code 2000, § 114-261)

Sec. 114-276. - Purpose.

The purpose of this article is to:

- (1) Protect the public potable water supply of the city from the possibility of contamination or pollution by isolating within the consumer's internal distribution system or the consumer's private water system such contaminants or pollutants which could backflow into ~~the~~the public water systems;

- (2) Promote the elimination or control of existing cross connections, actual or potential, between the consumer's in-plant potable water system and non-potable water system, plumbing fixtures and industrial piping systems; and
- (3) 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.

(Code 2000, § 114-262)

Sec. 114-277. - Responsibility.

The chief ~~building inspector~~executive officer of the public water system shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the chief ~~building inspector~~executive officer of the public water system, an approved backflow prevention assembly is required at the ~~consumer's~~property owner's water service connection; or, within the ~~consumer's~~property owner's private water system for the safety of the water system, the chief ~~building inspector~~executive officer or his/her designated agent shall give notice in writing to ~~such consumer to~~ install such an approved backflow prevention assembly at a specific location on ~~his~~the premises. The ~~consumer~~property owner shall immediately install such an approved backflow prevention assembly at the ~~consumer's~~hisproperty owner's own expense; and failure, refusal or inability on the part of the ~~consumer~~property owner to install, have tested and maintained such assembly shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

(Code 2000, § 114-263)

Secs. 114-278—114-302. - Reserved.

DIVISION 2. - REQUIREMENTS

Sec. 114-303. - Water system.

- (a) The water system shall be considered to be made up of two parts: The ~~water purveyor's~~public water system and the ~~consumer's~~property owner's system.
- (b) The ~~water purveyor's~~public water 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 ~~purveyor~~public water system, up to the point where the ~~consumer's~~property owner's system begins.
- (c) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system.
- (d) The distribution system shall include the network of conduits used for the delivery of water from the source to the ~~consumer's~~property owner's system.
- (e) The ~~consumer's~~property owner's system shall include those parts of the facilities beyond the termination of the ~~water purveyor's~~public water system's distribution system which are utilized in conveying potable water to points of use.

(Code 2000, § 114-286)

Sec. 114-304. - Policy.

No water service connection to any premises shall be installed or maintained by the ~~water purveyor's~~ public water system unless the water supply is protected as required by city laws and regulations and this article. Service of water to any premises shall be discontinued by the ~~water purveyor's~~ public water system if a backflow prevention assembly required by this article is not installed, tested and maintained, or if it is found that a backflow prevention assembly 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.

(Code 2000, § 114-287)

Sec. 114-305. - Inspection.

The ~~consumer's~~ property owner's system should be open for inspection at all reasonable times to authorized representatives of the chief ~~building inspector~~ executive officer of the public water system to determine whether unprotected cross connections or other structural or sanitary hazards, including violations of these regulations exist. When such a condition becomes known, the chief ~~building inspector~~ executive officer or authorized representatives shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the ~~consumer's~~ property owner has corrected the condition in conformance with the city statutes relating to plumbing and water supplies and the regulations adopted pursuant thereto.

(Code 2000, § 114-288)

Sec. 114-306. - Installation.

An approved backflow prevention assembly shall also be installed on each service line to a ~~consumer's~~ property owner's water system at or near the property line or immediately inside the building being served; but, 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 as determined by the chief ~~building inspector~~ executive officer, the public water system shall be protected against backflow from the premises by installing an approved backflow prevention assembly in the service line commensurate with the degree of hazard.
- (2) In the case of premises on 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 an approved backflow prevention assembly in the service line commensurate with the degree of hazard. This shall include the handling of process waters and waters originating from the ~~water purveyor's~~ public water system which have been subject to deterioration in quality.
- (3) In the case of premises having:
  - a. Internal cross connections that cannot be permanently corrected or protected against; or
  - b. 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 an approved backflow prevention assembly in the service line.

(Code 2000, § 114-289)

Sec. 114-307. - Protective assembly required.

The type of protective assembly required under section 114-306 shall depend upon the degree of hazard which exists as follows:

- (1) In the case of any premises where there is an auxiliary water supply as stated in section 114-306(1) and it is not subject to any of the following rules, the public water system shall be protected by an approved air gap or an approved reduced pressure principle backflow prevention assembly.
- (2) In the case of any premises where there is water or 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 backflow prevention assembly.
- (3) 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 or an approved reduced pressure principle backflow prevention assembly. Examples of premises where these conditions will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.
- (4) In the case of any premises where there are unprotected cross connections, either actual or potential, the public water system shall be protected by an approved air gap or an approved reduced pressure principle backflow prevention assembly at the service connection.
- (5) 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 from the premises by either an approved air gap or an approved reduced pressure principle backflow prevention assembly on each service to the premises.
- (6) In the case of premises with lawn irrigation systems, the public water system connected to lawn irrigation systems shall be protected against backflow by a pressure vacuum breaker or a reduced pressure principle assembly. A double check valve shall not be used. Where chemicals are introduced into the irrigation system, the public water system shall be protected against backflow by a reduced pressure principle assembly.

(Code 2000, § 114-290)

Sec. 114-308. - Backflow prevention standards.

1. Any backflow prevention assembly required in this article shall be a make, model and size approved by the chief ~~building inspector~~executive officer of the public water system. The term "approved backflow prevention assembly" means an assembly that has been manufactured in full conformance with the standards established by the American Water Works Association entitled ~~AWWA/ANSI C510-92 Standard for Double Check Valve Backflow Prevention Assemblies~~ and AWWA/ANSI C511-92 Standard for Reduced Pressure Principle Backflow Prevention Assemblies and have met completely the laboratory and field performance specifications of the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California (USC FCCCHR) established in Specifications of Backflow Prevention Assemblies, Section 10 of the most current edition of the Manual of Cross-Connection Control.
2. Such AWWA and USC FCCCHR standards and specifications have been adopted by the ~~chief building inspector~~City of Bay City Public Works Department. Final approval shall be evidenced by a "Certificate of Compliance" for the said AWWA standards, or "Certificate of Approval" for the USC FCCCHR specifications, issued by an approved testing laboratory.

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(Code 2000, § 114-291)

Sec. 114-309. - Testing laboratory.

Backflow preventers which may be subjected to backpressure or backsiphonage that have been fully tested and have been granted a certificate of approval by a qualified laboratory and are listed on the laboratory's current list of approved backflow prevention assemblies may be used without further test or qualification.

(Code 2000, § 114-292)

Sec. 114-310. - Field tests required.

~~It shall be the duty of the consumer at any premises where backflow prevention assemblies are installed to have a field test performed by a certified backflow prevention assembly tester upon installation and at least once per year. In those instances where the chief building inspector deems the hazard to be great enough he may require field tests at more frequent intervals. These tests shall be at the expense of the water user and shall be performed by city personnel or by a certified tester approved by the chief building inspector. It shall be the duty of the chief building inspector to see that these tests are made in a timely manner. The consumer shall notify the chief building inspector in advance when the tests are to be undertaken so that an official representative may witness the field tests if so desired. These assemblies shall be repaired, overhauled or replaced at the expense of the consumer whenever such assemblies are found to be defective. Records of such tests, repairs and overhaul shall be kept and made available to the chief building inspector.~~

1. It shall be the duty of the property owner or property owner's designee where backflow prevention assemblies are installed to have a field test performed by a state licensed backflow prevention assembly tester upon installation and at least annually. Instances where the chief executive officer deems the hazard to be great enough field tests may be required at more frequent intervals.
2. Field tests shall be at the expense of the property owner or property owner's designee and shall be performed by a state licensed backflow prevention assembly tester.
3. Backflow prevention assemblies that fail testing shall be repaired or replaced and retested at the expense of the property owner before returning the backflow prevention assembly to service.
4. The backflow prevention assembly tester that performs the inspection and testing shall complete a report on a form approved by the public water system for each assembly tested. The original signed and dated form must be submitted to the public water system within ten (10) days of performing the test. Only City of Bay City Backflow Prevention Assembly Test and Maintenance Report or an approved Texas Commission on Environmental Quality Backflow Prevention Assembly Test and Maintenance Report form will be accepted.
5. Property owners shall retain a copy of all test and maintenance reports for at least three (3) years after the date of any such tests.
6. Property owners that fail to have backflow prevention assemblies tested within thirty (30) days of the annual field test date may have water service terminated. Service will not be restored until the backflow prevention assembly passes field tests.

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(Code 2000, § 114-293)

Sec. 114-311. - Exemptions.

All presently installed backflow prevention assemblies which do not meet the requirements of this article but were approved ~~devices-assemblies~~ for the purposes described in this article at the time of installation and which have been properly maintained, shall, except for the testing and maintenance requirements under section 114-310, be excluded from the requirements of these rules so long as the chief ~~building-inspector~~executive officer is assured that they will satisfactorily protect the ~~water purveyor's~~public water system. Whenever the existing ~~device-assembly~~ is moved from the present location or requires more than minimum maintenance or when the chief ~~building-inspector~~executive officer finds that the maintenance constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this section.

(Code 2000, § 114-294)

Sec. 114-312. - Rules and policies.

The chief ~~building-inspector~~executive officer is authorized to make all necessary and reasonable rules, standards and policies with respect to the enforcement of this article. All such rules and policies shall be consistent with the provisions of this article and all other policies of the city in regard to water quality and the protection of public health and safety.

(Code 2000, § 114-295)

Sec. 114-313 – Enforcement

(a) The failure to perform any action that is required by this division, or the performance of any action that is prohibited by this division shall constitute a violation of this division.

(b) Criminal penalty. A conviction for a violation of any provision of this division shall constitute a Class C misdemeanor. A person convicted of a violation of this division shall be fined an amount of not less than two hundred dollars (\$200.00) per violation and a maximum of not more than two thousand dollars (\$2,000.00) per violation. Each violation of this division shall constitute a separate offense, and each day a violation continues shall be considered a new offense. A culpable mental state is not required to prove an offense under this division.

(c) Civil penalty. A civil penalty may be imposed for each violation of any provision of this division in an amount not to exceed five thousand dollars (\$5,000.00) per violation. Each violation of any provision of this division shall constitute a separate violation, and each day a violation continues shall be considered a new violation.

(d) Authorization to enforce. The City of Bay City Public Works Department is authorized to take any action authorized by this division against any person committing a violation of this division within the City of Bay City service area. The grant of authority set out in this section does not in any way diminish the authority of the office of the city attorney to take any action necessary to enforce the terms of this division, to prosecute violations of this division, and to defend the legality of this division, if challenged.

(e) Should the City of Bay City Public Works Department give written notice of a violation of this division to a property owner and the violation is not fully remedied within thirty (30) days after the date of the notice, the City of Bay City Public Works Department may terminate water, sewer and/or sanitation service to the location where the violation occurred.

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