

**PHILADELPHIA WATER DEPARTMENT REGULATIONS**

As of 2/21/20

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# **CHAPTER 1 CUSTOMER RIGHTS AND OBLIGATIONS**

## **100.0 RESIDENTIAL CUSTOMERS**

### **100.1 Definitions**

The following words and phrases when used in Sections 100.0 through 100.14 of these regulations have the meanings given to them in this Section unless specifically provided otherwise or unless the text clearly indicates otherwise:

(a) Authorized User: Any of the following types of Customers or users of the City's Utility Service:

1. Owner-Customer: An Owner in whose name the Utility Service account is established or who by operation of law is responsible for payment of charges for Utility Service.
2. Tenant-Customer: A Tenant with legal proof of tenancy, in whose name the Utility Service account is established.
3. USTRA Tenant: As defined hereinafter in this Section.
4. Occupant: An Occupant as defined in Section 100.1(f)
5. Household Member with Medical Emergency: Any person who resides at the Service Location and who seeks to delay shutoff of service pursuant to Section 100.10 of these regulations.

(b) Customer: An Owner, Tenant or Occupant, other than an USTRA Tenant, who by operation of law or agreement is responsible for payment of the charges for Utility Service at a Service Location.

(c) Department: The Philadelphia Water Department also referred to as PWD or the Water Department.

(d) Dwelling Unit: An individual housing unit in a Residential Property such as a single family home or a single apartment within a multi-unit apartment building.

(e) Frivolous Appeal: An appeal taken other than in good faith and solely for purposes of delay.

(f) Occupant: A person who is lawfully permitted to reside at a service address.

(g) Owner: A person who has title to a Service Location, or his or her agent acting on his or her behalf.

(h) Rental Agreement: An agreement between two parties, either oral or written, by which the Owner of a Service Location agrees to lease all or part of the Service Location to a Tenant.

(i) Residential Property: Any building containing one or more Dwelling Units occupied for residential purposes, but not including dormitories, nursing homes, hotels, or motels.

(j) Service Location: A Dwelling Unit or Residential Property of a Customer or Authorized User that is eligible to receive Utility Service after acceptance of an application for such Utility Service or by operation of law.

(k) TAP Bill: A bill issued by the Water Revenue Bureau to a Customer enrolled in the Tiered Assistance Program (TAP) for service, usage and stormwater charges and any payments toward pre-TAP arrears.

(l) TAP Payment Agreement: A payment agreement provided to a Customer enrolled

in TAP in accordance with these regulations and Section 19-1605 of the Philadelphia Code.

(m) Tenant: A person who leases all or part of a Service Location pursuant to a current Rental Agreement and who is not an USTRA Tenant.

(n) Tiered Assistance Program (TAP): The Income-Based Water Rate Assistance Program described in these regulations and Section 19-1605 of the Philadelphia Code, also referred to as IWRAP.

(o) USTRA: The Utility Service Tenants Rights Act, 68 P.S. §399.1 et seq.

(p) USTRA Tenant: A “tenant” as defined for water service by USTRA, 68 P.S. §399.2.<sup>1</sup>

(q) Utility Service: Water, sewer and/or stormwater service provided to an Authorized User or property.

(r) WRB: The Water Revenue Bureau, within the City of Philadelphia Department of Revenue.

## **100.2 Application for Service as Residential Customers**

The Water Revenue Bureau (WRB), subject to the terms and conditions set forth in these regulations, will receive completed applications to become a Customer from Owners, Tenants and Occupants and will, upon acceptance of a completed application, direct the Department to provide Utility Service in the name of the

Customer to the authorized Service Location under the terms and conditions set forth in these regulations.

### **(a) Application to Become a Customer**

(1) An Owner shall become a Customer as of the date of title transfer established by the record deed or otherwise established by sufficient evidence to show title to the Service Location.

(2) A Tenant or Occupant who wishes to become a Customer must submit:

(A) His or her name and current address, and, when available, a current telephone number. An applicant generally will be required to provide at least one form of personal identification in the form of a United States or State government issued photo identification, i.e. driver’s license (any state), PA photo ID, U.S. passport, U.S. passport card, U.S. Permanent Resident Card, U.S. Visa, or U.S. Department of Defense Common Access Card. Other forms of personal identification will be referred to a WRB Supervisor.

(B) Satisfactory evidence of Owner’s authorization to reside at the Dwelling Unit by a Tenant or Occupant. Such evidence will usually be in writing, including, for example, a current: Rental Agreement or Agreement of Sale for the Dwelling Unit for which the applicant desires service, a lease, rent book, money order receipts, canceled checks, other utility bills in

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<sup>1</sup> USTRA defines “tenant” as: Any person or group of persons whose dwelling unit in a residential building or mobile home park is provided gas, electricity, steam or water, pursuant to a rental arrangement for such dwelling unit, mobile home or plot of ground within a mobile home park, but who is not the ratepayer of the

company which supplied such gas, electricity, steam or water. USTRA defines “residential building” as: A building containing one or more dwelling units occupied by one or more tenants, but excluding nursing homes, hotels and motels.

the applicant's name at that address, rent receipts, or other written evidence of tenancy or written evidence of the Owner's consent to occupancy. Evidence of a prior determination by a court of competent jurisdiction of the existence of a current rental arrangement for the Dwelling Unit between the Owner and the applicant or the acceptance of the applicant's complaint against the Owner and the scheduling of a hearing thereon by the Philadelphia Fair Housing Commission shall be considered conclusive of this issue.

(C) A completed application and affidavit in such form as the WRB shall from time to time deem appropriate wherein the applicant agrees to pay for Utility Service supplied in his or her name and makes certain acknowledgements and certifications consistent with these regulations.

(3) All WRB determinations shall be made in writing upon the application form and a copy given or mailed to the applicant.

(4) Where a person with a household income at or below 250% of the federal poverty level becomes the Owner of a Service Location with an existing delinquent balance, the Department and the WRB will not deprive or refuse the new Owner of Utility Service solely on the basis of that pre-existing delinquent balance, where the Owner becomes or is eligible to become a Customer. The City may lien the property for any delinquent balance.

(b) Eligibility

(1) An Owner, Tenant or Occupant of a Service Location is qualified to become a Customer, UNLESS:

(A) The applicant is the agent of a

current or previous delinquent Customer at the Service Location and is attempting on that delinquent Customer's behalf to avoid shut off or restore service previously shut off without payment of that Customer's past due charges for Utility Service or any other miscellaneous charges. Such agency will normally be found to exist where the property that would be receiving Utility Service is or will be occupied by a currently delinquent Customer or where such delinquent Customer would otherwise use or receive the benefit of the Utility Service;

(B) The applicant has not paid or arranged to pay for past due charges for Utility Service for which the applicant is legally responsible at this or another Service Location, including charges for unauthorized usage;

(C) Utility Service to the Service Location is legally off and there exist uncorrected Water Department violation(s) at the Service Location or a determination that providing Utility Service to the Service Location would endanger life, health, safety or property;

(D) Service to a Service Location cannot be accomplished without revision of the Department's distribution and/or collector facilities or acquisition of additional rights-of-way;

(E) The Tenant or Occupant is a Customer currently receiving service at another Service Location and has a delinquent bill at the other Service Location; or

(F) The Tenant is applying for Utility Service at a Service Location for which no valid residential rental property license exists.



(2) Upon receipt of the evidence and documents required in Section 100.2(a) of these regulations, the WRB shall determine whether the applicant is a qualifying Owner, Occupant, or Tenant and whether the applicant is eligible to become a Customer.

(3) In determining whether uncorrected Water Department violations exist at a Service Location, the WRB shall request that the Department promptly review its files and provide the WRB with a listing of any violations. The applicant shall be given a written list of any violations and advised that it is his or her responsibility to correct the violations. The applicant may be required to provide a certification from a registered plumber that the corrections have been made before service will be provided. In no case will Utility Service be turned on if the Service Location is found at any time by the Department to be in a condition not suitable to receive water, or in a condition which would create an emergency or dangerous condition to itself or another Service Location or endanger life, health, safety or property.

(c) Additional Conditions

(1) If the Dwelling Unit is already separately metered, a meter reading must be taken before the applicant will be accepted as a Customer. The reading may be taken by the applicant. In such cases, the Customer must provide the meter number and the meter interface unit (MIU) or encoder receiver transmitter (ERT) number. The WRB reserves the right to require a reading by the WRB or the Water Department before the application will be accepted. In such cases, the WRB will promptly order a meter reading and advise the applicant to facilitate entry of the meter reader into the Dwelling Unit.

(2) If the applicant's Dwelling Unit is presently set up for individual metering but no meter is at the property, a meter must be installed before the applicant will be accepted as a Customer. In such cases, WRB will promptly order from the Water Department the installation of a meter and the applicant must provide entry to Department personnel into the property for this purpose. Meter charges must be paid or scheduled for payment as part of a payment agreement by the applicant before application approval.

(3) If the applicant's Dwelling Unit is not individually metered, the Dwelling Unit must be set up for individual metering by a registered plumber to the Department's satisfaction at the expense of the applicant or the Owner and a water meter must be installed before an applicant will be accepted as a Customer. Meter charges must be paid or must be scheduled for payment as part of a payment agreement before application approval.

(d) Notice to Owner

(1) Upon receipt of a Customer application for Utility Service by a person not the Owner of a Service Location, the WRB shall mail to the Owner at the license address on file with the Department of Licenses and Inspections for the property in which an applicant's Service Location is located, or if no such license address is available, at such other address as the WRB reasonably believes is the valid current address of the Owner, a notice of the application in such form as the WRB shall from time to time deem appropriate.

(2) The notice shall advise the Owner of the application for and the possible provision of the Utility Service to the Service Location for which the Owner will be

responsible for payment if the applicant becomes delinquent. The notice shall afford the Owner twenty (20) days from the date of the notice in which to provide the WRB with any comments regarding the applicant's eligibility and to indicate any objection to the application. The notice shall also advise the Owner to notify the WRB immediately if an emergency condition exists which makes the provision of water service a danger to the property or to the safety of others or their property.

(3) Should the Owner fail to object prior to such time as the WRB is otherwise prepared to accept the applicant as a Customer, the Owner shall be deemed to have no objection to provision of Utility Service in the applicant's name, and Utility Service will be provided to the applicant, unless the water is currently off and the applicant has no evidence of a current lease or a right to possess the property, as described in Section 100.2(a)(2)(B).

(e) Acceptance of Application

(1) An applicant otherwise eligible shall be entitled to become a Customer for his or her Dwelling Unit only or to have service continued or restored to his or her Dwelling Unit only, upon fulfillment of the above conditions in Subsection 100.2(a) through (c), unless:

(A) Water service is currently on and the Owner expressly objects to the application; or

(B) Water service is currently off and the Owner has not given his or her express written consent to the provision of service in the applicant's name.

(2) The WRB may determine in its sole discretion to temporarily continue or

restore service to the applicant's Dwelling Unit at no cost to the applicant.

(3) If a Tenant or Occupant is accepted as a Customer, the WRB shall so indicate on the application by signing it and giving or mailing the applicant a copy.

(4) Acceptance of an application from a Tenant or Occupant will not occur until the 20-day notice period to the Owner pursuant to Subsection (d) of this Section has expired. Prior to that time the application of a Tenant or Occupant will be considered as pending. Any termination will be deferred during the period when the application is pending.

(f) Turn-on of Utility Service

(1) If Utility Service has been shut off by the Department, the Department will visit the Service Location to turn-on Utility Service for a new Customer at no charge to the applicant where service can be provided by operation of the curb stop.

(2) Where Utility Service can only be provided by means other than the operation of the curb stop, such as restoration of the ferrule, service line or curb-stop to operable condition, such restoration must be made by a licensed plumber at the expense of the applicant or Owner.

(3) Notwithstanding any other provision of these regulations, where Utility Service has previously been shut off by the Water Department or the WRB for any reason under these regulations or permitted by law, and the WRB has been notified that the Department of Licenses and Inspections has determined the premises to be in dangerous or imminently dangerous condition pursuant to the Building Code, Title 4 of the Philadelphia Code, service will

be provided only upon the prior written consent of the Department of Licenses and Inspections.

(g) Rejection of Application

If the applicant is rejected as a Customer, the WRB shall so indicate on the application and give its reasons in writing in the appropriate space on the application. WRB will note any condition that must be met and itemize charges that must be paid in order to obtain service and will provide a description of the process by which the applicant may dispute the WRB determination. A copy of the rejected application shall be promptly mailed or hand-delivered to the applicant.

(h) Revocation of Acceptance

Should the WRB after issuance of a written acceptance of the application, receive a valid objection from an Owner or determine that any of the certifications in the application are materially false or that the applicant may otherwise not be eligible to be a Customer, the WRB may deny, revoke and rescind acceptance of the application. The WRB will give its reasons for revocation in writing on the application. The WRB will note any condition that must be met and itemize any charge that must be paid in order to obtain service and will provide a description of the process by which the applicant may dispute the WRB determination.

(i) Termination of Customer Relationship

(1) After acceptance by the WRB of an application for Utility Service, Tenants and Occupants who are Customers will remain responsible for paying all future charges for Utility Service to their Dwelling Units until such time as there is:

(A) Revocation of acceptance of the Customer application;

(B) A written request received from the Tenant or Occupant Customer to terminate Customer status;

(C) Acceptance of a subsequent Customer for the Dwelling Unit by the WRB and the taking of a final meter reading; or

(D) Purchase of a discontinuance permit and termination of service at the Owner's request. Responsibility for the stormwater service charge will not terminate upon the issuance of a discontinuance permit.

(2) The WRB will notify Tenants and Occupants who are Customers of termination of their status as Customers in writing by first class mail.

(3) Owners, whether or not they are Customers or occupy the Service Location where Utility Service is being provided, remain responsible for paying water/sewer charges until the issuance of a discontinuance permit, and remain responsible for paying stormwater charges at all times during ownership.

**100.3 USTRA Tenant Rights**

(a) The Department and WRB will comply with the provisions of USTRA, 68 P.S. §399.1 et seq. The rights of USTRA Tenants to continued service are set forth in Section 7 of USTRA, 68 P.S. §399.7.

(b) Application for Continued Service under USTRA

(1) USTRA Tenants who wish to apply to have Utility Service continued or resumed pursuant to Section 7(a) of

USTRA or an USTRA Tenant who has been notified of a proposed discontinuance or Utility Service pursuant to Section 3 of USTRA and wishes to subscribe for future Utility Service individually pursuant to Section 7(b) of USTRA must submit a completed application and supporting documentation in such form as the WRB shall from time to time deem appropriate and which provides information necessary to support the applicant's claim of tenancy.

(2) All USTRA Tenant determinations will be made by the WRB in writing upon the application form. If an applicant is entitled to continued service under USTRA, the WRB shall accept the application by signing it and giving or mailing the applicant a copy. The WRB may determine in its sole discretion that in lieu of continuing service under USTRA, the WRB will temporarily continue or restore service at no cost to the USTRA Tenant.

#### **100.4 Shut off of Utility Service**

(a) Nothing in this regulation shall modify the Department's right to shut off Utility Service without prior notice to prevent or alleviate an emergency which presents a danger to life, health, safety or property.

(b) In addition to shut offs caused by revocations of acceptance of applications, the WRB may cause the Water Department to shut off Utility Service at a Service Location, after notice has been given and the opportunity for an informal hearing provided, on the following grounds:

(1) ten (10) days after a Customer is delinquent for two billing periods; or

(2) when the Water Department or the WRB is denied for two consecutive billing

periods access to the Service Location to read or make changes or repairs to the meter.

(c) When the Department shuts off Utility Service to a Service Location, the water and sewer service charges shall not be charged against the Service Location during the period of any termination beginning with the date of any termination. The Owner shall be responsible for the stormwater service charge at all times and under all circumstances.

(d) The Department will suspend the termination of Utility Service to residential occupied properties for nonpayment of a delinquent bill from December 1<sup>st</sup> to March 31<sup>st</sup> of the ensuing year. This suspension does not release any water Customer of the obligation to pay for Utility Service.

#### **100.5 Notice of Shut off**

(a) Shut off Notice to Residential Customer

A shut off notice in English and Spanish will be mailed or delivered to a Customer. Translations to other languages will be provided upon request. If the WRB directly bills a Tenant Customer, a duplicate notice will be mailed or delivered to the Owner Customer. The shut off notice to a Customer shall include at least the following information, when applicable, in such form, as the WRB or the Department shall from time to time deem appropriate.

(1) Account number;

(2) Date of notice;

(3) Address of property;

(4) Amount past due;

(5) Date on or after which water service

will be shut off;

(6) The available methods for avoiding shut off, including:

(A) tendering sufficient payment to avoid or postpone shut off of water service or otherwise eliminate the grounds for shut off of service;

(B) entering into a payment agreement before the shut off date;

(C) paying what is past-due on the most recent payment agreement before the shut off date;

(D) enrolling in the City's Water Revenue Assistance Program, if the Authorized User is eligible for the program;

(E) applying to the WRB for continued service under USTRA, if the Authorized User is an USTRA Tenant;

(F) completing such other steps as may be required as specified in a notice issued by the Department; or

(G) requesting an informal hearing within ten (10) days if a dispute exists as to any matter described in Section 100.7(a) of these regulations;

(7) A notice that a timely hearing request will prevent shut off until a final decision is made;

(8) A notice that a hearing request must be made in person or in writing, and must be received within ten (10) days of the date of the notice;

(9) A telephone number to call for further information or explanation; and

(10) The Medical Emergency Procedures for delaying shut off pursuant to Section 100.10 of these Regulations.

(b) Shut off Notices Required by USTRA

Shut off notices required to be given to landlords and USTRA Tenants pursuant to USTRA shall comply with the notice provisions of USTRA, 68 P.S. § 399.1 et seq.

(c) Shut off for Lack of Meter Access

If a Service Location is subject to shut off due to lack of a meter reading or lack of access to the meter, the Department will send or deliver a notice to the Service Location by mail or hand delivery stating that to avoid shut off of service and possible additional charges the Customer must contact the Department and provide access to the meter by the Department. If the Department's records show that the mailing address of the Owner is different from the Service Location address, a duplicate notice will be sent or delivered to the Owner by mail or hand delivery to his or her mailing address.

(d) Service of Notices

In the case of service of notices referred to in this Section which are mailed or delivered to a Customer or Service Location, WRB and the Department shall be entitled to rely on the mailing address or service address as reflected on the bill and in the records of WRB or the Department, as of the date the notice is served.

## **100.6 Shut-Off Notice Schedule**

(a) Notice Schedule for Residential Customers

(1) Except as otherwise provided in Section 100.4 of these regulations, Customers subject to shutoff for any of the reasons stated in these regulations will receive one written notice prior to the date of the proposed shutoff of service.

(2) Except as otherwise provided in Section 100.6(b) of these regulations for notices to landlords required by USTRA, a notice scheduling shutoff after a Customer has been delinquent for two billing cycles will be issued no earlier than the date of the second delinquent bill and at least thirty (30) days prior to the date of the proposed shutoff of service.

(3) A notice for failure to provide access to the meter pursuant to Section 100.4 of these regulations will be mailed or hand delivered in accordance with Section 100.5(c) of these regulations and at least thirty (30) days prior to the date of the proposed shutoff of service.

(4) A notice of plumbing defect for a Customer who has been found to have a plumbing defect will be mailed or hand delivered to the Service Location at least ten (10) days prior to the date of the proposed shutoff of service.

(5) If the Customer does not permit a reading or access to the meter, have a registered plumber correct the defect within the days specified in the notice, pay the delinquent bill in full, enter into a payment agreement, request a hearing or produce a certificate of serious illness pursuant to Section 100.10 of these regulations, the water service to the Residential Property will be subject to shutoff any time on or after the shut-off date set forth on the notice.

(b) Notice Schedule for Notices Required by

## USTRA

Shut-off notices required to be given to landlords and USTRA Tenants pursuant to USTRA shall comply with the notice provisions of USTRA, 68 P.S. 399.1 et seq.

(c) Notice to Tenant Customers, Occupant Customers and Owners.

Where water service to a Tenant Customer or Occupant Customer is to be shut off for reasons of his or her non-payment of charges for Utility Service or his or her failure to permit access to the meter, the Tenant Customer or Occupant Customer shall be afforded the same notice and hearing rights as any other residential Customer under these regulations. In such a case, the WRB or the Department shall promptly send to the Owner by mail or hand delivery to his or her record address(es) a copy of the shut-off notice mailed or delivered to the Tenant Customer or Occupant Customer.

### **100.7 Administrative Hearings**

(a) Informal Hearings before Revenue Department Hearing Officers

Unless a hearing or an opportunity for a hearing has already been given on the same issue or charges (as determined by the Revenue Department), upon timely request, an Authorized User may request an informal hearing before a Revenue Department hearing officer to contest a written decision or determination of the Water Department or WRB with regard to the following:

(1) the Authorized User's responsibility for the Utility Service charges;

(2) the amount due or any possible errors in computing charges on the Utility Service bill;

(3) shut off for nonpayment;

(4) shut off for failure to provide access to the meter;

(5) denial of a request for continued service pursuant to Section 100.10 of these regulations (Medical Emergency Procedures);

(6) denial of an application for continued water service under USTRA and/or;

(7) a determination that an applicant is ineligible for a HELP loan due to a delinquent balance on his or her Utility Service bill or for a reason other than homeownership.

(b) Appeals to the Tax Review Board (TRB)

(1) Pursuant to Section 19-1605 of the Philadelphia Code, the TRB is authorized to review any adverse final decision or determination of the Revenue Department relating to initial or continued eligibility for an Income-Based Water Rate Assistance Program (IWRAP) agreement or to a customer's performance of his or her obligations under an IWRAP agreement.

(2) Pursuant to Section 19-1702 of the Philadelphia Code, the TRB has jurisdiction to hear appeals of decisions or determination relating to the liability of any person for any unpaid money or claim collectible by the Department of Revenue for the on behalf of the City, including but not limited to any water or sewer rents.

(c) Appeals to the Office of Administrative Review (OAR)

An Authorized User may appeal the

following written decisions or determinations of the WRB directly to OAR:

(1) rejection of an application for service or revocation of acceptance of an application for service under Section 100.2 of these regulations; and/or

(2) any decision or determination relating to a WRB payment agreement, other than an IWRAP agreement.

(d) The Board of License and Inspection Review

The Board of License and Inspection Review hears appeals of notices of property violations and notices of plumbing defects issued by the Water Department.

(e) Procedures for Informal Hearing before Revenue Department Hearing Officers

(1) To be timely, requests for informal hearings before a Revenue Department Hearing Officer must be made:

(A) within thirty (30) days of the date of the disputed bill or written determination that is being disputed; or

(B) within ten (10) days from the date of the first shut off notice, or notice of rejection or revocation of an application for service.

Thereafter, the right to request a hearing is waived, except to dispute charges accruing and determinations made after the date of the first shut off notice, or unless the hearing officer, for good cause shown, grants an untimely request for an informal hearing.

(2) Hearing requests may be made in

person to the WRB or by mail. An Authorized User may request a hearing by completing and submitting a form prepared by WRB. The form may be completed by a WRB customer or service representative in exceptional circumstances on a case-by-case basis, e.g. where the Authorized User is visually impaired. If shut off has not occurred, the WRB may upon good cause shown grant a hearing request made after the scheduled shut off date, or more than ten (10) days after the first shut off notice.

(3) Where an Authorized User has requested an informal hearing and Utility Service to a Service Location is on, the WRB shall give at least ten (10) days notice by regular mail or hand delivery to the Authorized User or his or her specified representative, if any, setting forth the time, date and place of hearing and the Authorized User's rights at the hearing as set forth in Sub-sections 100.7(a) of these regulations, provided that an earlier hearing may be scheduled by mutual agreement. Where a hearing is requested and water service to a property is off, or the hearing is requested by an Authorized User to dispute denial of a request for continued service pursuant to Section 100.10 of these regulations (Medical Emergency Procedures), or a hearing is requested by an Authorized User subject to immediate termination pursuant to Section 100.8(b) of these regulations (Frivolous Appeals), the WRB shall schedule an informal hearing to be held within ten (10) days of receipt of an informal hearing request form, unless a later time is requested.

(4) The Authorized User, or his or her designated representative who need not be an attorney, may request in writing or may visit the WRB in person during regular working hours, to review and receive copies of any available records relevant to Utility

Service at such individual's primary residence, including any computer printout relevant to the billings for Utility Service to the Service Location. WRB will make a good faith effort to respond to such a request in accordance with WRB policy and procedures.

(5) Upon showing of good cause by the Authorized User, such as illness, one continuance of the informal hearing shall be granted for a total period not to exceed ten (10) days. Additional continuances may be granted within the discretion of the Revenue Department.

(6) The informal hearing shall be conducted by an impartial hearing officer who shall be an employee of the City knowledgeable about water usage, billing practices and procedures, but who has not previously discussed or considered the dispute with the Authorized User, except in his or her capacity as a hearing officer.

(7) At the informal hearing, the hearing officer shall consider all relevant evidence and shall permit the presentation and questioning of relevant witnesses and documents as determined by the hearing officer. The Authorized User may bring a representative who need not be an attorney. All testimony at the hearing may be recorded by the hearing officer but the recording will not be transcribed unless a party at the hearing requests and makes arrangements for payment for such a transcript or other circumstances warranting a transcription exists. Unless objected to, parties may make their own tape recording of the hearing, but the only official record shall be that made by the hearing officer.

(8) The hearing officer may request a meter re-reading at no charge to the Authorized User and/or a meter test, the



cost of which will be charged to the Authorized User if the test shows that the meter is accurate within 2%. The hearing officer shall review such evidence in reaching a final decision on the dispute.

(9) The hearing officer may conduct the hearing telephonically upon a timely request of a party and a showing of good cause, e.g. Authorized User is disabled, ill, a senior citizen or out of town.

(10) The hearing officer has the authority to determine, either on his or her own motion or upon a motion of a party to the hearing, that an Authorized User does not have standing, or that a matter is moot or not yet ripe for a decision, or that the matter is more appropriately decided by another City office, department, board or commission.

(11) After the hearing, the hearing officer shall send to the Authorized User and to his or her specified representative, if any, by first class mail a written decision with a summary of the facts and reasoning that are the basis of the decision. Any meter rereading, inspection or meter test findings shall be included in the hearing decision, if applicable and relevant to the decision.

(12) Thereafter, any obligation of the Authorized User affirmed by the hearing officer must be satisfied within thirty (30) days of the date of the decision. Upon the expiration of thirty (30) days, unpaid disputed charges shall be delinquent.

### **100.8 Rights Pending Final Decision**

(a) Except as otherwise provided in this Section or elsewhere in these regulations, WRB and the Water Department will not shut off Utility Service to a Service Location

in the following circumstances and during the following periods:

(1) from the initiation of a dispute covered by Section 100.7(a) of these regulations until thirty (30) days after the issuance of a decision on that dispute;

(2) while a dispute about an account is being reviewed by the Account Analysis Unit (AAU) of the Revenue Department;

(3) from the filing of a completed informal hearing request form in accordance with Section 100.7 of these regulations until thirty (30) days after the issuance of an informal hearing decision;

(4) from the filing of a completed hearing request with the Tax Review Board (TRB) or Office of Administrative Review (OAR) until thirty (30) days after the issuance of a TRB or OAR decision;

(5) when WRB is notified of a medical emergency condition in accordance with Section 100.10 of these regulations; or

(6) during such other periods as established by WRB or Water Department rules, regulations or written policy.

However, the Authorized User must pay the undisputed portion of disputed bill(s) and shut off of service may occur if the undisputed portion becomes delinquent.

(b) Frivolous Appeals. Except as provided in this Subsection below, if an Authorized User is found by a decision of a hearing officer to have filed or submitted at least two Frivolous Appeals and the hearing officer's decision is not appealed further or is appealed and upheld after further appeal, then subsequent informal hearing requests by such Authorized Users within 18 months of the

hearing officer's Frivolous Appeal determination will not result in a stay or postponement of shut off of Utility Service. Instead, upon filing of a subsequent informal hearing request by such an Authorized User under the circumstances described above, an informal hearing will be scheduled on an expedited basis (within 10 days of an informal hearing request form), unless a later time is requested by the Authorized User. A request to delay the hearing will not stay shut off of Utility Service. If a hearing officer decides a future informal hearing request in favor of such Authorized User, the Frivolous Appeal restrictions will be lifted.

(c) A notice of the rights of review, compromise, waiver and refund with the TRB, OAR and/or the Department of Revenue under Chapter 19-1700 of The Philadelphia Code and the stay procedures set forth below shall be included by the hearing officer in every hearing decision.

(d) If an Authorized User timely files a petition for review with the TRB or the OAR raising matters within the jurisdiction of the TRB/OAR and the matters were raised before the informal hearing officer, the WRB will stay further shut off action pending a final decision of the TRB/OAR, provided that the Authorized User or his or her representative promptly notifies the hearing officer in writing of the petition and the Authorized User pays or arranges to pay any undisputed past charges, including penalties, and thereafter complies with any outstanding payment agreements and pays or arranges to pay all current charges when due in the future, except as otherwise provided during medical emergencies as set forth in Section 100.10 of these regulations.

If a stay is revoked because of the failure of an Authorized User or their representative to comply with these conditions, the WRB shall give at least ten (10) days written notice by mail or hand delivery of its intention to shut off Utility Service. In no case will the filing of a petition for review require the Water Department to restore Utility Service already shut off, except as otherwise provided during medical emergencies as set forth in Section 100.10 of these regulations.

(e) After a final decision of the TRB/OAR regarding a billing issue, the WRB will mail a final bill to the Authorized User who requested review by TRB/OAR with a notice that the Authorized User will have thirty (30) days from the date of the bill to pay or enter into payment agreement with the WRB to pay the original or modified charges or the Service Location will be subject to shut off without further notice, unless the property is occupied by one or more USTRA Tenants, in which case appropriate notice shall be provided in accordance with USTRA and Section 100.6 of these regulations.

(f) If the Authorized User files a petition for compromise, waiver or refund, the Authorized User may apply in writing to the WRB, which may in its discretion grant a stay of further shut off action pending final decision on the petition.

## **100.9 Payment Agreements<sup>2</sup>**

### **(a) Standard Payment Agreements**

Customers with unpaid balances on their accounts may contact the WRB to apply for a payment agreement. Payment agreements for Customers whose service is shut off will

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<sup>2</sup> Nothing in these regulations will modify the rights of existing Customers or the obligations of WRB with respect to any existing payment agreements.

have the terms set forth in Section 100.12 of these regulations. Except as otherwise provided in Subsections (b), (c) and (h) of this Section for Customers with household income at or below 250% of the federal poverty level, subsection (d) of this Section for Customers enrolled in TAP, or in Section 100.11 of these regulations for initial payments to the Department representative at the time of the shut off visit, payment agreements for Customers whose service is on will have the following terms:

(1) Initial Payment: 25% of the outstanding delinquency, provided that the WRB may waive all or a portion of the initial payment for Customers with household income at or below 250% of the federal poverty level.

(2) Subsequent Payment: The remainder of the outstanding delinquency shall be paid in equal monthly installments on an agreed upon day of each month until the balance of the delinquency is paid in full. Standard payment agreement terms normally will not exceed eighteen (18) months.

(3) Current Charges: All subsequent undisputed charges, including penalties on the outstanding delinquency, must be paid when due in addition to the payments on the delinquency or the agreement will be breached.

(4) Penalty charges will not accrue on the outstanding balance for each month that the payment agreement is fully complied with.

(5) Customers with household incomes above 250% of the federal poverty level who cannot meet the foregoing standard payment

agreement terms due to Special Hardship, may apply to the WRB for TAP pursuant to Section 206.2 of these regulations. For purposes of this section and Section 100.12 of these regulations, the term “Special Hardship” shall have the meaning set forth in Section 206.1 of these regulations implementing TAP.

#### (b) Water Revenue Assistance Program (WRAP) Payment Agreements<sup>3</sup>

Customers with household incomes at or below 250% of the federal poverty level may contact the WRB to make a WRAP payment agreement. The initial and subsequent payments on the delinquency shall be determined as follows:

(1) Before entering into a WRAP payment agreement, the WRB will require documentation of household income.

(2) Initial Payment: 10% of the outstanding delinquency. The outstanding delinquency shall include meter installation charges, if applicable.

(3) Subsequent Charges: 5% on arrearage balance plus current charges. All subsequent undisputed charges, including penalties on the outstanding delinquency, must be paid when due in addition to the payments on the delinquency or the agreement will be breached.

(4) Penalty charges will not continue to accrue on the outstanding delinquent balance for each month that the payment agreement is fully complied with.

#### (c) Extended Payment Agreements

Customers who do not return a completed WRAP application by July 14, 2017.

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<sup>3</sup> WRB will accept requests for new WRAP applications until June 30, 2017. Enrollment in new WRAP Payment Agreements will be closed to

Customers with household incomes above 150% of the federal poverty level and at or below 250% of the federal poverty level may apply to the WRB for an extended payment agreement. Such payment agreements:

(1) Shall be based on household income.

(2) May have payout terms which exceed eighteen (18) months if the WRB determines that a term of 18 months or less would result in an average monthly total bill for current service, usage and stormwater charges and for payment of arrears that is in excess of approximately 4% if the Customer's Monthly Household Income as defined in Sections 206.1 of these regulations.

(3) May waive all or a portion of the initial down payment.

(4) Shall provide that penalty charges will not accrue on the outstanding balance for each month that the payment agreement is fully complied with.

(5) Shall require the payment of all charges when due or the payment agreement will be breached.

(6) May require Customers to participate in the Department's Water Conservation Program.

(d) TAP Payment Agreements

(1) Customers enrolled in TAP with in-program arrears due to nonpayment of TAP Bills may apply to WRB for a TAP Payment Agreement regarding such unpaid TAP Bills and other charges assessed during the period such Customer's service was off (collectively referred to as "Post-TAP Arrears"). Such TAP Payment Agreements

generally shall require payment of Post-TAP Arrears in twelve equal installments.

(2) WRB may deny a Customer's application for a TAP Payment Agreement for good cause shown, including without limitation, a determination that WRB has entered into two or more prior TAP Payment Agreements with the Customer.

(e) Payment agreements shall be in writing and shall contain the Customer's promise or acknowledgement that:

(1) In addition to monthly payments under the agreement, the Customer must pay current charges on the account.

(2) Notwithstanding the payment agreement, a lien may be placed upon the Customer's property for the amount of the outstanding account balance. Customers enrolled in TAP will not have liens placed on their property in accordance with Section 206.8 of these regulations.

(3) The Customer may request a review of a payment agreement in person or in writing. Before defaulting on an agreement, the Customer must notify the WRB of circumstances which may warrant a review of the payment agreement. If the Customer presents satisfactory evidence to the WRB of a change in household income which would warrant a change in the payment terms of the agreement, the WRB may appropriately modify the payment agreement, provided the Customer is not in default on the agreement. The original agreement shall remain in effect unless so modified.

(4) Except as otherwise provided in Section 206.0 through 206.10 of these regulations for Customers enrolled in TAP, delinquencies which accrue during the course

of a payment agreement will not be waived, suspended or deferred.

(f) When a payment agreement is entered into, the WRB's representative will:

(1) Advise the Customer of the amount that the Customer is required to pay each month, the dates when such monthly payments are due, the date the last payment is due, and the number of months the agreement will take to complete.

(2) Provide the Customer with a copy of the agreement.

(3) Advise the Customer to inform WRB of change in household income before defaulting on an agreement, because the Customer may request a review of the agreement.

(g) Breach of Payment Agreement and Bad Checks

(1) "Breach" of a payment agreement means failure to make timely payment of the initial payment or subsequent payments, failure to pay current charges when due including penalties, tender of a "bad" check or a check returned for insufficient funds to the WRB, or failure to notify the WRB of a change in household income before defaulting on the agreement.

(2) If a Customer breaches a payment agreement entered into after receipt of a shut off notice relating to a property which is not USTRA Tenant occupied, the WRB may mail or otherwise deliver an appropriate shut off notice to the Customer scheduling shut off no less than ten (10) business days thereafter. Shut off of water service may

thereafter proceed without further notice or attempt at personal contact. If a Customer breaches a payment agreement relating to a property which is inhabited by USTRA Tenants, the Customer and the USTRA Tenants will be given appropriate notices scheduling shut off in conformance with USTRA and Sections 100.5(b) and 100.6(b) of these regulations.

(3) Subsequent to the mailing or delivery of a shut off notice as a result of a breach of the payment agreement, and prior to actual shut off, a Customer shall have a right to cure the breach and resume making payments in accordance with the terms of the payment agreement and these regulations.

(4) If a Customer breaches a payment agreement and the same is not cured as provided herein, or gives the WRB a bad check after having received a shut off notice, the decision to modify or review any existing agreement, enter into any future agreements, or to otherwise extend further credit on any existing or future delinquency of the Customer and the terms of such credit shall be within the sole discretion of the WRB.

(h) WRAP-WRBCC Payment Agreements<sup>4</sup>

The Water Revenue Bureau Conference Committee (WRBCC or The Committee) is a governing board that monitors the equity applied in determining the most affordable payment plan terms for income eligible customers. The Committee is comprised of employees of the Revenue and Water Departments. Payment agreements issued by WRB under this subsection are known as WRBCC payment plans. The WRBCC is empowered to develop flexible payment plans based on a household's income and/or

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<sup>4</sup> WRB will accept requests for new WRAP applications until June 30, 2017. Enrollment in new WRAP-WRBCC Payment Agreements will be closed

to Customers who do not return a completed WRAP application by July 14, 2017.

expenses. The WRBCC in its discretion may suspend all or a portion of any arrearages in the establishment of payment plans. The WRBCC is also empowered to review payment plans at any time, but at least on an annual basis. Based upon its review, the WRBCC may modify, rescind or revoke any payment plan previously established.

(1) Customers with household incomes at or below 250% of the federal poverty level who cannot afford the standard payment agreement described at Section 100.9 of these regulations may apply to the WRB for WRBCC payment plans.

(2) A Customer threatened with shut off whom the WRB knows to be between 150% and 250% of the federal poverty level must furnish proof of income and expenses to the WRB in order for it to determine which affordable payment plan the Customer is a candidate to receive. The WRB shall consider the following household expenses in determining ability to pay: Rent or mortgage, utility bills, telephone, food, medical bills, transportation, laundry, clothing, toiletries, taxes, insurance, and other reasonable expenses. Customers with household income below 150% of the federal poverty level shall not be required to document expenses.

(3) Accepted applicant may be required to participate in the Water Department's Water Conservation Program as a condition of the WRBCC payment plan.

(4) Waiver of Penalty. Penalty charges will not accrue on the outstanding balance during the term of the WRBCC payment plan.

(5) "Breach" of a WRBCC payment plan is consistent with the definition of "breach" stated at Section 100.9(g) of these

regulations. In the case of a breach of a WRBCC payment plan, the Customer will be afforded the same rights as in Subsection 100.9(g) of these regulations.

(i) Decisions in Writing. Any decision or determination of the WRB relating to a WRB payment agreement, the amount of arrears for which the Customer is responsible, the completeness of a Customer's application and the adequacy or completeness of any documentation submitted in connection with an application for a payment agreement, or the Customer's performance of his or her obligations under a WRB payment agreement shall be provided to the Customer in writing, and shall include a specific reason for the decision or determination, and a statement of the Customer's right to an administrative hearing to dispute such decision.

(j) Language Access/Non-English Speakers. Consistent with applicable law and policy, the WRB and the Department shall take reasonable steps to ensure meaningful access to payment agreements for Limited English Proficient (LEP) persons by complying with the requirements of Section 8-600 of the Philadelphia Home Rule Charter, Section 19-1605 of the Philadelphia Code, the Executive Order regarding Citywide Policy on Language Access and the applicable Language Access Plans prepared in accordance with the City's language access policy.

### **100.10 Medical Emergency Procedures**

(a) The WRB shall delay shut off of water service where shut off will aggravate an existing serious illness of any person who is a resident of the Residential Property if a written certification on a physician's stationery, dated and signed by a physician is submitted to the WRB which sets forth the

name, address, and telephone number of the physician, the name and address of the resident who is ill, that the physician has examined the person, and the nature, seriousness and expected duration of the illness.

(b) The certification of illness shall delay shut off for the length of the illness or thirty (30) days from the date that the certificate is submitted, whichever is less, and may be renewed for no more than an additional thirty (30) days.

(c) The right to delay shut off under this Section may only be exercised once in any twelve month period.

#### **100.11 Procedure at Shut Off**

(a) Provided that no action to avoid or delay a shut off has been taken as provided herein, a Department representative will visit the Residential Property on or after the scheduled date to shut off service.

(b) Except as otherwise provided in Section 100.10 of these regulations for medical emergencies, Customers may avoid shut off of service for nonpayment of prior bills issued by WRB only under the following circumstances:

(1) If no payment agreement has previously been entered into for the delinquency; (i) tender of the appropriate visit fee and 50% of the outstanding account balance to the Department representative by check, cashier's check or money order payable to the WRB if the Customer is not enrolled in TAP; or (ii) tender of the appropriate visit fee and 50% of the outstanding account balance of Post-TAP Arrears to the Department representative by check, cashier's check or money order

payable to the WRB if the Customer is enrolled in TAP .

(2) The Customer must thereafter contact the WRB and enter into a payment agreement within the next five (5) business days or service will automatically be shut off on or after the sixth (6<sup>th</sup>) business day following the initial visit by the Department representative. All subsequent undisputed charges, including penalties on the unpaid delinquency, must be paid when due in addition to the installments under agreement, or the agreement will be considered breached.

(3) If service is to be shut off for breach of a payment agreement for which the Customer has not availed himself or herself of his or her right to cure, tender of the appropriate visit fee and 100% of the outstanding balance on the agreement to the Department representative, by check, cashier's check or money order payable to the WRB.

(c) If partial payment in an amount approved by a WRB supervisor is received where no payment agreement has previously been entered into for the delinquency or if a showing of serious illness is made, service will be shut off without further notice, unless within five (5) business days, the Customer pays the balance in full, enters into a payment agreement for the balance due on the terms set forth in Section 100.9 of these regulations or submits a certification of illness as provided in Section 100.10 of these regulations.

(d) If service is to be shut off for lack of a meter reading, shut off may be avoided by permitting the Department representative to read the meter.

(e) When water service is shut off, the Department representative shall leave at the property a notice informing the residents of the shut off and what steps can be taken to restore the water service.

(f) When the Customer has given the WRB a “bad” check, such as a check returned for insufficient funds, within the previous thirty-six (36) months, the WRB will require payment of the sums listed above in this Section by certified check, cashier's check or money order. Cash will not be accepted under any circumstances, except at the WRB's Municipal Services Building location.

### **100.12 Restoration of Service**

(a) Service shall be restored within one (1) day, if possible, when the following conditions are met:

(1) The Customer permits a meter reading or access to the meter for inspection, changes or repairs; and/or

(2) The Customer permits installation of a meter if the Dwelling Unit is not separately metered. The Dwelling Unit must be set up for individual metering by a registered plumber to the Department's satisfaction at the expense of the Customer. Installation charges for the meter will be charged to the Customer; and/or

(3) The Customer makes payment in full of the outstanding account balance and appropriate restoration charges; and/or

(4) One or more USTRA Tenants pays the Utility Service charges incurred in the thirty (30) day period preceding the notice of shutoff; and/or

(5) the Customer has a registered plumber perform the plumbing repairs and correct the defects indicated in a notice of plumbing defect.

(b) Customers above 250% of the federal poverty level and not enrolled in TAP may pay appropriate restoration charges and enter into a payment agreement as follows:

(1) Initial Payment: If no payment agreement has previously been entered into for the outstanding account balance, 50% of the total bill presently due, such payment to be made prior to restoration of water service. If a payment agreement has previously been entered into and service has been shut off because of a breach thereof, 100% of the outstanding delinquency must be paid.

(2) Subsequent Payments: The remainder of the outstanding delinquency shall be divided equally amongst the number of months of the agreement.

(3) Current Charges: All subsequent undisputed charges, including penalties on the unpaid delinquency, must be paid when due in addition to the installments under the payment agreement, or the agreement will be breached.

(c) Customers who are determined to be at or below 250% of the federal poverty level pursuant to Section 100.9 of these regulations and who are not enrolled in TAP may pay appropriate restoration charges and enter a payment agreement as follows:

(1) Initial Payment: If no payment agreement has previously been entered into for the outstanding account balance, 25% of the total bill presently due, such payment to be made prior to restoration of water service. If a payment agreement has previously been entered into and service has been shut off



because of a breach thereof, 50% of the outstanding delinquency must be paid.

(2) Subsequent Payments: The remainder of the outstanding delinquency shall be divided equally amongst the number of months of the agreement. The number of months of the payment agreement will be determined so that the Customer's estimated average monthly total bill for the current service, usage and stormwater charges and payment of arrears is reasonably anticipated to be approximately 4% of the Customer's Monthly Household Income as defined in section 206.1 of these regulations.

(3) Current Charges: All subsequent undisputed charges, including interest and penalties on the unpaid delinquency, must be paid when due in addition to the installments under the payment agreement, or the agreement will be breached.

(d) In the event service to a Customer enrolled in TAP is terminated for non-payment of TAP bills, such Customer shall be entitled to restoration of service (i) upon payment of such unpaid Post-TAP Arrears, (ii) upon such Customer's entry into a TAP Payment Agreement with the WRB regarding such Post-TAP Arrears pursuant to Section 100.9(d) of these regulations, or (iii) upon a finding of Special Hardship by the WRB.

(e) Restoration of service shall be available to applicants for TAP, subject to reasonable limitations established by WRB and the Department concerning the frequency and number of applications that may be requested in order to restore service.

(f) Where the Customer has given the WRB a "bad" check or a check returned for insufficient funds within the previous twelve (12) months, the WRB will require payment

of the sums listed above in this Section by certified check, cashier's check or money order. Cash will not be accepted under any circumstances, except at the WRB's Municipal Services Building location.

(g) Upon good cause shown, the WRB or the Department may in its discretion allow restoration of service upon terms more favorable to the Customer than otherwise permitted herein.

### **100.13 Posting of Authorized User Rights**

(a) The WRB will post in several conspicuous places in its offices easily understood posters to notify Authorized Users of their rights, including the right to dispute the WRB's decision.

(b) The Department and WRB will post a flyer or brochure describing the dispute process on their websites.

### **100.14 Modifications**

These regulations shall be subject to and shall be modified by any amendments to the Pennsylvania Utility Service Tenants Rights Act ("USTRA"), 68 P.S. §399.1 et seq., without further notice.

## **101.0 COMMERCIAL CUSTOMERS**

### **101.1 Definitions**

The following words and phrases when used in Sections 101.0 through 101.10 of these regulations have the meanings given to them in this Section unless specifically provided otherwise or unless the text clearly indicates otherwise:

(a) Business Use Property: Any property used for either profit or non-profit that can be classified in the following categories:

(1) Residential Rental Property: Any single family home or multi-unit building acquired with the intent of or actually renting all or part of the property to another for use as a residential dwelling. A property does not qualify as Residential Rental Property if it meets all of the following criteria:

(A) it is the principal residence of the Owner;

(B) it consists totally of residential units; and

(C) it consists of less than four (4) units.

(2) Commercial Property: Property acquired or leased for purposes of carrying on a trade, business, profession, vocation or any manufacturing, commercial, service, financial or utility business or activity including, but not limited to, hotels, office buildings, gas service stations, laundries, commercial establishments, stores, malls, car washes, parking lots or any other commercial use.

(3) Combined Use Property: Property used as both Residential Rental Property and Commercial Property.

(b) Commercial Tenant: An individual or entity that leases a Business Use Property pursuant to a current lease agreement.

(c) Commercial Property Owner: An individual or entity that owns a Business Use Property.

(d) Commercial Customer: An individual or entity with title to a Business Use Property, his or her duly authorized agent or his or her Guaranteed Lessee who by operation of law or agreement is primarily responsible for the

payment of charges for water/sewer/stormwater service at a Business Use Property.

(e) Department: The Philadelphia Water Department also referred to as PWD or the Water Department.

(f) Guaranteed Lessee: A Commercial Tenant to whom a Commercial Property Owner has made an assignment of ownership rights by agreement thereby making the Commercial Tenant primarily responsible for the payment of water/sewer charges.

(g) Guarantor: A Commercial Property Owner who guarantees payment of water/sewer/stormwater charges by a Guaranteed Lessee.

(h) USTRA: The Utility Service Tenants Rights Act, 68 P.S. §399.1 et seq.

(i) USTRA Tenant: A “tenant” as defined for water service by USTRA, 68 P.S. §399.2.

(j) WRB: The Water Revenue Bureau, within the Philadelphia Revenue Department.

## **101.2 Application for Service**

The WRB will accept Commercial Property Owners, their duly authorized agents or Guaranteed Lessees as Commercial Customers and will direct the Department to provide water/sewer/stormwater service in their names to their Business Use Properties under the terms and conditions set forth in these regulations.

(a) Application to Become a Customer:

(1) A Commercial Property Owner shall become a Commercial Customer as of the date of title transfer established by the

record deed subject to the eligibility requirements set forth below.

(2) A Commercial Tenant who wishes to become a Commercial Customer of the WRB may apply to become a Guaranteed Lessee. To apply for Commercial Customer status the Commercial Tenant (“applicant”) must submit:

(A) name(s) of principals, a current business address, a current business license, and phone numbers;

(B) a completed application and affidavit in such form as the WRB shall from time to time deem appropriate wherein the applicant provides:

(i) Satisfactory evidence of the Commercial Property Owner's consent to possession of the Business Use Property by the Commercial Tenant. Such evidence will usually be in writing, including, for example, a current lease agreement for the Business Use Property for which the applicant desires service, or other written evidence of tenancy or written evidence of the owner’s consent to occupancy; and

(ii) A written guarantee from the Commercial Property Owner assuring payment of any water/sewer/stormwater charges billed to the Commercial Tenant.

(3) Upon receipt of the evidence and documents required in Section (b) above, the WRB shall determine whether the Commercial Tenant is eligible to become a Commercial Customer.

(4) All WRB determinations shall be made in writing upon the application form and a copy given or mailed to the applicant. After acceptance by the WRB, the

Guaranteed Lessee customer shall be entitled to the same rights and subject to the same obligations as any other Commercial Customer of the WRB.

#### (b) Eligibility

A Commercial Property Owner or Commercial Tenant (either shall be known as "applicant") is qualified to become a Commercial Customer under these regulations, UNLESS:

(1) The applicant has not paid or arranged to pay for past due charges for water/sewer/stormwater service for which he is legally responsible at this or another service address, including charges for unauthorized usage.

(2) The Guarantor has not paid outstanding water/sewer/stormwater charges at time of application.

(3) Water service to the Business Use Property is legally off, there exist uncorrected PWD violation(s) at the property and/or service to the property would endanger health or safety.

In determining whether uncorrected PWD violations exist in a Business Use Property, the WRB shall request that the PWD promptly review its files and/or the property and provide the WRB with a listing of any violations. The applicant shall be given a written list of any violations and advised that it is his or her responsibility to correct the violations and provide a certification that the corrections have been made from a registered plumber before service will be provided. In no case will water service be provided if the Business Use Property is found at any time by the PWD to be in a condition not suitable to receive water, or in a condition which

would create an emergency or dangerous condition to itself or another property.

(4) Service to a Business Use Property necessitates revision of the Department's distribution facilities or acquisition of additional rights-of-way or the quantity of water required or expected pattern of usage negatively impacts existing customers or does not comply with the regulations governing water service and sewer service.

(c) Additional Conditions

(1) All commercial applicants shall provide any information as may be required by the WRB or PWD.

(2) If the Business Use Property is already separately metered, a meter reading must be taken before the applicant will be accepted as a Commercial Customer. The reading may be taken by the applicant, but the WRB reserves the right to require a reading by the WRB or the PWD before the applicant will be accepted. In such cases, the WRB will promptly order a meter reading and advise the applicant to facilitate reading of the meter.

(3) If the applicant's property is presently set up for individual metering but no meter is at the property, a meter will be installed before the applicant will be accepted as a Commercial Customer. In such cases, the WRB will promptly order from the PWD the installation of a meter and advise the applicant to facilitate entry of the necessary PWD personnel into the property for this purpose. Meter charges must be paid before water services will be provided.

(4) If the applicant's property is not individually metered, the Dwelling Unit must be set up for individual metering by a registered plumber to the PWD's satisfaction

at the expense of the applicant and a water meter must be installed before an applicant will be accepted as a Commercial Customer. Installation charges must be paid before water service will be provided.

(d) Turn-on of Service

Notwithstanding any other provision of these regulations, where service has previously been shut off by the PWD or the WRB for any reason under these regulations, and the WRB has been notified that the Department of Licenses and Inspections has determined the premises to be in dangerous or imminently dangerous condition pursuant to the Building Code, Title 4 of the Philadelphia Code, service will be provided only upon the prior written consent of the Department of Licenses and Inspections.

(e) Rejection of Application

If the applicant is rejected as a Commercial Customer, the WRB shall so indicate on the application and give its reasons therefore in writing in the appropriate space on the application. WRB will note any condition that must be met and itemize charges that must be paid in order to obtain service. A copy of the rejected application shall be promptly mailed to the applicant.

(f) Revocation of Acceptance of Guarantee

Should the WRB after issuance of a written acceptance of the application receive written notice, in a form acceptable to the WRB, that the payment guarantee by the Commercial Property Owner has been withdrawn, revoked or rescinded, the WRB may deny, revoke and rescind Commercial Customer status to the Commercial Tenant. The WRB will give its reasons for revocation or rescission in writing. The revocation and rescission will be effective ten (10) days after

notice to the applicant unless the applicant requests a hearing to dispute withdrawal of the guarantee.

(g) Termination of Customer Relationship

(1) After acceptance by the WRB of an application, Commercial Customers will remain responsible for paying all future charges for water/sewer/stormwater service to business use properties until such time as there is:

(A) a revocation of the payment guarantee by the Guarantor;

(B) acceptance of a new Commercial Customer for the Business Use Property by the WRB and the taking of a final meter reading; or

(C) issuance of a discontinuance permit and termination of service at the Commercial Property Owner's request provided there is no outstanding guarantee on the property. Commercial Property Owners remain responsible for paying the stormwater charge even after a discontinuance permit is issued.

(2) The Guarantor shall notify the Guaranteed Lessee of the termination of their status as Commercial Customers in writing by first class mail.

(3) Commercial Property Owners remain responsible for paying water/sewer charges until the issuance of a discontinuance permit or replacement by a new Commercial Customer. Commercial Property Owners remain responsible for paying the stormwater charge even after a discontinuance permit is issued.

**101.3 Shutoff of Service**

(a) Nothing in this regulation shall modify the Department's right to shut off service without prior notice to prevent or alleviate an emergency which presents a danger to life or property.

(b) The WRB may cause the PWD to terminate water service at a Business Use Property, after an appropriate shut-off notice has been given, on the following grounds:

(1) after a Commercial Customer is delinquent for two billing periods; or

(2) when the Water Department or the WRB is denied for two consecutive billing periods access to the Business Use Property to read, make changes to or repair the meter or the Commercial Customer has unreasonably refused to take or permit a meter reading or to provide access to the meter.

**101.4 Notice of Shutoff**

(a) Shut-off Notice to Commercial Customer

A shut-off notice will be mailed to a Commercial Customer. The shut-off notice shall include at least the following information, in such form as the WRB shall from time to time deem appropriate.

(1) Account number,

(2) Address of property,

(3) Amount past due,

(4) Date on or after which water service will be shut off,

(5) The available methods for avoiding shutoff, including:

(A) Paying the entire balance, including penalty, before the shut-off date; or

(B) Negotiating a payment agreement before the shut-off date; or

(C) Making an appointment for a meter reading or for access to the meter by the Water Department, such appointment to be scheduled within ten (10) days of the shut-off date.

(D) Requesting a hearing within ten (10) days if a dispute exists as to:

(i) Commercial Customer's responsibility for the bill,

(ii) amount due or other possible errors in the bill

(iii) whether the WRB has properly applied payment agreement terms,

(iv) whether the Commercial Customer has unreasonably refused to take or permit a meter reading or to provide access to the meter.

(6) A timely hearing request will prevent shutoff until a final decision is made.

(7) A hearing request may be made by telephone, in person or in writing, and must be received within ten (10) business days prior to the date of shutoff.

(8) A telephone number to call for further information or explanation.

**(b) Shut-off Notices Required by USTRA**

Shutoff notices required to be given to landlords and USTRA Tenants pursuant to USTRA shall comply with the notice provisions of USTRA, 68 P.S. § 399.1 et seq.

**(c) Shutoff for Lack of Meter Access**

If a Commercial Property is subject to shutoff due to lack of a meter reading or lack of access to the meter, the Department will send or deliver a notice to the Commercial Customer by mail or hand delivery stating that to avoid shutoff of service and possible additional charges the customer must contact the Department and provide access to the meter by the Department.

**101.5 Shut-Off Notice Schedule**

(a) Commercial Customers subject to shutoff for any of the reasons stated in these regulations will receive one written notice prior to the date of the proposed shutoff of service.

(b) Except as otherwise provided in Section 101.5(c) of these regulations for notices to landlords required by USTRA, a shut-off notice scheduling shutoff after a Commercial Customer has been delinquent for two billing cycles will be issued no earlier than the date of the second delinquent bill and at least ten (10) days prior to the date of the proposed shutoff of service.

(c) Shutoff notices required to be given to landlords and USTRA Tenants pursuant to USTRA shall comply with the notice provisions of USTRA, 68 P.S. 399.1 et seq.

(d) A shut-off notice scheduling shutoff for a Commercial Customer who has refused the City access to the meter pursuant to Section 101.3 of these regulations will be mailed to the Commercial Customer and at least ten (10) days prior to the date of the proposed shutoff of service.

(e) A notice of plumbing defect for a Commercial Customer who has been found to have a plumbing defect will be mailed or hand delivered to the service address at least ten (10) days prior to the date of the proposed shutoff of service.

(f) If the Commercial Customer does not permit a reading or access to the meter, have a registered plumber correct the defect within the days specified in the notice, pay the delinquent bill in full, enter into a payment agreement, or request a hearing, water service to the Business Use Property will be subject to shutoff any time on or after the shut-off date set forth on the notice, unless the property is occupied by a residential tenant, in which case appropriate notice shall be provided as specified in Section 100.5 of these regulations.

### **101.6 Hearings**

(a) Upon timely request, a Commercial Customer may request an informal hearing before a Revenue Department hearing officer to:

(1) Dispute the Commercial Customer's responsibility for the charges on the water/sewer/stormwater bill;

(2) Dispute the amount due or any possible errors in computing charges on the water and sewer bill;

(3) Dispute whether payment agreement terms have been properly applied;

(4) Dispute shutoff for failure to take or permit a meter reading or to provide access to the meter; and/or

(5) Dispute shutoff for nonpayment or lack of access to the meter to change repair or read.

(b) Appeals to the Tax Review Board (TRB)

Pursuant to Section 19-1702 of the Philadelphia Code, the TRB has jurisdiction to hear appeals of decisions or determinations relating to the liability of any person for any unpaid money or claim collectible by the Department of Revenue for or on behalf of the City, including but not limited to any water or sewer rents.

(c) The Board of License and Inspection Review

The Board of License and Inspection Review hears appeals of notices of property violations and notices of plumbing defects issued by the Water Department.

(d) Procedures for Informal Hearings before Revenue Department Hearing Officers

The procedures for informal hearing before Revenue Department Hearing Officers regarding disputes by Commercial Customers shall be the same as the procedures set forth in Section 100.7(e) of these regulations.

### **101.7 Rights Pending Final Decision**

(a) A notice of a Commercial Customer's rights of review, compromise, waiver and refund with the Tax Review Board ("TRB") and the Department of Revenue under Chapter 19-1700 of the Philadelphia Code and the stay procedures set forth below shall be included by the hearing officer in every hearing decision.

(b) If a Commercial Customer timely files a petition for review with the TRB raising matters within the jurisdiction of the TRB and the matters were raised before the hearing officer, the WRB will stay further

shutoff action pending a final decision of the TRB, provided that the Commercial Customer promptly notifies the hearing officer in writing of the petition and pays or arranges to pay any undisputed past charges, including penalties, and thereafter complies with any outstanding payment agreements and pays or arranges to pay all current charges when due in the future.

If a stay is revoked because a Commercial Customer's failure to comply with these conditions, the WRB shall give at least ten (10) days written notice by mail of its intention to shut off service. In no case, will the filing of a petition for review require the WRB to restore service already shut off.

(c) After a final decision of the TRB, the WRB will mail a final bill to the Commercial Customer with a notice that the Commercial Customer will have thirty (30) days from the date of the bill to pay or enter into payment agreement with the WRB to pay the original or modified charges or the Business Use Property will be subject to shutoff without further notice, unless the property is occupied by a residential tenant, in which case appropriate notice shall be provided as specified in Section 100.5 of these regulations.

(d) If the Commercial Customer files a petition for compromise, waiver or refund, the Commercial Customer may apply in writing to the WRB which may in its discretion grant a stay of further shutoff action pending final decision on the petition. If a stay is granted, the procedures in Sub-sections 101.7 (b) and (c) shall apply.

### **101.8 Payment Agreements**

(a) Commercial Customers may negotiate a payment agreement with the WRB. Such

agreements will have the following standard terms:

(1) To enter an agreement fifty percent (50%) of the outstanding balance must be paid at the signing of the agreement. The WRB may, with proof of personal and business financial condition as specified in Section 101.8 (a)(5) of these regulations, accept thirty-three percent (33%) of the outstanding balance with supervisory review and twenty-five percent (25%) of the outstanding balance with management review.

(2) The balance outstanding must be paid in six (6) equal installments beginning thirty (30) days after the initial down payment.

(3) All current bill(s) must be paid when rendered.

(4) A three (3) month extension on the payout of the balance (nine (9) month payout) may be granted with supervisory review and approval. Any payout exceeding nine (9) months will require management review and approval.

(5) If a Commercial Customer requests a payout to exceed nine (9) months, proof of personal and business financial condition must be presented. Proof of financial condition shall include:

(A) a statement by the Commercial Customer.

(B) one (1) full year of financial statements, i.e., tax returns, income statements: cashflow analysis (actual and projected), profit and loss statements.

(6) Payout may not exceed twelve (12) months. A payment agreement will be



granted only once in a twelve (12) month period.

(7) Commercial accounts are not eligible for consideration for medical emergencies or utility grants.

(b) "Breach" of a payment agreement means failure to make timely payment of the initial payment or subsequent payments, failure to pay current charges when due including penalties and tender of a "bad" check or a check returned for insufficient funds to the WRB.

(c) If a Commercial Customer requests a hearing pursuant to Section 101.6 of these regulations, within the time period provided in the shut-off notice after a payment agreement has been breached, the only issue which will be considered at the hearing will be the Commercial Customer's compliance with the terms of the payment agreement.

(d) Subsequent to the mailing or delivery of a shut-off notice as a result of a breach of the payment agreement, and prior to actual shutoff, a Commercial Customer shall have a one-time right to cure the breach and resume payments in accordance with the terms of the payment agreement.

### **101.9 Procedure at Shutoff**

Provided that no action to avoid or delay a shutoff has been taken as provided herein, a Department representative will visit the property on or after the scheduled date to shut off service.

### **101.10 Restoration of Service**

(a) Service shall be restored within 24 hours, if possible, when the following conditions are met:

(1) the Commercial Customer makes payment in full of the outstanding account balance and appropriate restoration charges; and/or

(2) the Commercial Customer enters into a payment agreement; and/or

(3) the Commercial Customer permits a meter reading or access to the meter for inspection, changes or repairs; and/or

(4) the Commercial Customer permits installation of a meter if property is not separately metered. The property must be set up for individual metering by a registered plumber to the Department's satisfaction at the expense of the Commercial Customer or the Commercial Property Owner. Installation charges for the meter will be charged to the Commercial Customer; and/or

(5) One or more USTRA Tenants pays the Utility Service charges incurred in the thirty (30) day period preceding the shut-off notice; and/or

(6) the Commercial Customer has a registered plumber perform the plumbing repairs and correct the defects indicated in a notice of plumbing defect.

**CHAPTER 2  
ASSISTANCE PROGRAMS**

**200.0 HOMEOWNER EMERGENCY  
LOAN PROGRAM**

**200.1 Purpose**

The Homeowner's Emergency Loan Program (HELP) loan is an interest free, installment payment loan for water service line, water supply line, curb trap, main drain and/or sewer lateral repair or replacement, administered by the City of Philadelphia Water Department (the "Department" or "PWD"). An approved applicant enters into an agreement ("Agreement") with the Department, committing to repay the total costs of the work to the City of Philadelphia.

**200.2 Eligibility**

Eligibility is subject to the availability of funds allocated for this program and such other criteria that the Department in its discretion determines appropriate for the replacement of Lead Service Lines based on the risk of exposure to lead in drinking water and plumbing conditions. To be eligible for the program, all of the following conditions must be met:

- (a) Applicant is the property owner(s) of record; and
- (b) The property does not contain more than four (4) units; and
- (c) The property is a Residential Property, or if mixed commercial/residential, the property is primarily residential; and
- (d) The property either:
  - 1. is in need of an emergency water service line, water supply line, curb trap, main drain and/or sewer lateral

repair or replacement as evidenced by a Notice of Defect and/or Notice of Violation issued by the City; provided that if, in the process of correcting a drainage system defect another drainage system defect is discovered and verified by the Department, or, if in the process of correcting a water system defect, another water system defect is discovered and verified by the Department, then an additional Notice of Defect will not be necessary to increase the loan to cover those additional repairs;

and/or

- 2. receives water service through an operable Lead Service line, as defined in Section 205.1 of these regulations, and the property owner elects to replace the Lead Service Line; and

(e) Applicant is not delinquent by more than two (2) billing cycles on his/her water/sewer/stormwater bill or a prior HELP Loan for the subject property, or for any other property owned by applicant in the City of Philadelphia, except as may be covered by a current payment agreement with the Water Revenue Bureau or its agent(s) or if the property owner is enrolled in good standing in the Income-Based Rate Assistance Program (otherwise known as the Tiered Assistance Program or TAP) described in PWD Regulation 206.0 or the Senior Citizen discount program described in Section 5.2(b) of PWD Rates and Charges; and

(f) The property is served by an operable water meter (including appurtenant parts); and

(g) Applicant shall consent to the placement of a lien on the property for the amount of the total cost of the work and associated lien.

### **200.3 Loan Amounts and Payment Responsibilities**

(a) Applicant shall enter into the current standard HELP Agreement.

(b) The loan amount shall be determined by the Department, based upon the total costs of the work and lien fee.

(c) The property owner shall repay the loan amount to the Department in sixty (60) equal monthly installments except as described in 200.6.

### **200.4 Delinquencies**

(a) If the property owner fails to make two (2) consecutive timely payments, property owner shall be in default of the Agreement, and the outstanding balance shall become immediately due and owing without further notice. Upon default, penalties at the rate charged for water/sewer/stormwater arrearages, plus a penalty fee of five percent of the total loan amount will be added to the outstanding balance and as part of the lien. Should the property owner subsequently satisfy the missed payments, penalties shall continue to accrue for the remaining term of the loan.

(b) Delinquencies are not subject to Section 100.9 of these regulations.

### **200.5 Application Process**

An eligible property owner must take the following actions in order to be eligible for a HELP loan:

(a) Complete and return the HELP loan Application that includes, at a minimum, the Applicant's current phone number and address.

(b) Allow timely access to the City and/or its contractors for the purposes of inspecting the property and making the corrective repairs.

### **200.6 Tiered HELP Program**

(a) If a property owner is enrolled in the Income-Based Water Rate Assistance Program described in PWD Regulation 206.0 or the Senior Citizen discount program described in Section 5.2(b) of PWD Rates and Charges, and otherwise qualifies for a HELP Loan, he or she may, when entering into the HELP Loan Agreement, choose to repay the HELP Loan in 60, 120, or 180 months in equal monthly installments.

(b) The election to enter a 60, 120, or 180-month repayment schedule described in 200.6(a) is irrevocable and shall be binding on the property owner. However, the property owner shall not be penalized for pre-payment of the loan.

## **201.0 BASEMENT BACKFLOW PREVENTION PROGRAM**

### **201.1 Definitions**

(a) Basement Backflow Prevention Device: any valve, mechanism or apparatus installed on any fixture, toilet or drain that prevents water from the City's sewers from backing up into a property's basement during rain events.

(b) Basement Backflow Prevention Program: the program managed by the City pursuant to these regulations.

(c) City: the City of Philadelphia acting through its Water Department or other City departments.

(d) City Sewers and City Sewer System: only those pipes and infrastructure owned and maintained by the City and shall not include sewer laterals that are owned and maintained by property owners.

(e) Program Application: the form created by the Department which must be completed by a property owner in order for the City to verify the property owner's eligibility for the Basement Backflow Prevention Program.

## **201.2 General Policy**

During certain very heavy rain events the City's sewer system can become surcharged. This excess water in the City's sewer system can then backup into basements through fixtures, toilets, or floor drains connected to the City's sewer system. The purpose of the Basement Backflow Prevention Program is to prevent water from surcharged City sewers from backing up into people's basements through fixtures connected to the City's sewers by installing basement backflow prevention devices on these fixtures. The City shall pay all costs directly related to the purchase and installation of the basement backflow prevention devices that are installed pursuant to the Basement Backflow Prevention Program.

## **201.3 Eligibility**

(a) Any property that, during rain events, experiences water from the City's sewers backing up into its basement through basement fixtures, toilets or floor drains that are connected to the City's sewer is eligible to participate in the Basement Backflow Prevention Program as set forth in these regulations. The property owner must submit

a Program Application and must comply with all requirements of the Application Process set forth in Section 201.4 of these Regulations. If eligible, the property owner may receive basement backflow prevention device(s) in accordance with the prioritization set forth in Section 201.3(b) of these Regulations.

(b) In order to efficiently use its resources the City may prioritize eligible properties for the installation of basement backflow prevention devices based on the City's review of the individual circumstances of each property. In prioritizing when the homeowner may receive the backflow prevention devices the City may consider the following factors:

(1) the schedule for the completion of the long term flooding solutions in the homeowner's area;

(2) the frequency of basement backups in the property;

(3) the severity of basement backups in the property;

(4) availability of sufficient funds and resources to implement the Basement Backflow Prevention Program; and

(5) any other factors the City deems reasonable and appropriate for the prioritization of installation of the basement backflow prevention device(s).

(c) If for some reason a basement backflow prevention device can not be installed or is ineffective the City may consider protecting the basement from backflow through other means or devices.

#### **201.4 Application Process**

An eligible property owner must take the following actions in order to participate in the Basement Backflow Prevention Program:

- (a) Complete and return the Program Application.
- (b) Allow timely access to the City and/or its contractors for the purposes of inspecting the property and installing the basement backflow prevention devices.
- (c) Remove any object or obstructions in the basement which restricts access to the fixture or prevents installation of the basement backflow prevention devices.
- (d) Sign the Basement Backflow Prevention Agreement.
- (e) Be current on the property's water/sewer/stormwater bill such that there is no arrearage over one hundred dollars (\$100), except as may be covered by a current payment agreement with the Water Revenue Bureau or its agents.

#### **201.5 Basement Backflow Prevention Devices**

- (a) The Basement Backflow Prevention Program provides fixture level protection in order to prevent backups into basements. Therefore, an eligible property whose owner completes the Application Process shall receive a basement backflow prevention device.
- (b) Selection of the basement backflow prevention devices shall be at the City's discretion.

(c) The use of fixtures in which a basement backflow prevention device has been installed may be restricted during rain events. The Basement Backflow Prevention Agreement shall specify what restrictions, if any, may apply to the operation of the fixture.

(d) The City shall bear all costs directly related to the purchase and installation of the basement backflow prevention devices that are installed pursuant to the Basement Backflow Prevention Program.

#### **201.6 Ownership & Maintenance of the Basement Backflow Prevention Devices**

Once installed, the property owner shall own and maintain the basement backflow prevention device. The property owner is solely responsible for the testing, maintenance, upkeep and replacement of the basement backflow prevention device. This provision shall be specifically included in the Basement Backflow Prevention Agreement.

#### **201.7 Release of Liability**

The City shall not be responsible for any damages or associated costs resulting from inoperable or malfunctioning basement backflow prevention devices and/or damages arising from the installation of the basement backflow prevention devices. This provision shall be specifically included in the Basement Backflow Prevention Agreement.

#### **201.8 Basement Backflow Prevention Agreement**

The City shall create a Basement Backflow Prevention Agreement that each property owner must sign in order to participate in the Basement Backflow Prevention Program. The Agreement shall include, but not be limited to, the following provisions:

- (a) an explanation of what the basement backflow prevention device is and how it works;
- (b) an explanation regarding limitations on its use, if any, during rain events;
- (c) maintenance requirements and an acknowledgment by the property owner that the property owner, once the basement backflow prevention device is installed, owns the device and is solely responsible for its maintenance, testing and upkeep; and
- (d) a liability release from the damages related to any failure of the basement backflow prevention devices and/or the installation of the basement backflow prevention devices.

**202.0 URBAN GARDEN AND URBAN FARM LOAN PROGRAM**

**202.1 Purpose**

The Urban Garden and Urban Farm Loan Program is an interest free, installment payment loan administered by the City of Philadelphia Water Department (the “Department”) for the installation of water service lines to urban gardens and urban farms. Approved applicants will enter into an Urban Garden and Urban Farm Loan Agreement (“Agreement”) with the Department committing to repay the total costs of the work to the City of Philadelphia. Use of the loan proceeds is restricted to the costs to install a water service line, backflow preventer, meter and meter box with an underground or above ground enclosure that meets the Department’s specifications. All work shall be performed by a Department registered and approved licensed plumber and shall comply with all Department specifications.

**202.2 Eligibility**

Eligibility is subject to the availability of funds allocated for this program. To be eligible for the program, all of the following conditions must be met:

- (a) the applicant must be an urban community garden association or urban farm that either owns the lot or who is permitted by the owner to use the lot for an urban garden or farm; and
- (b) the property owner shall consent to the placement of a lien on the property for the amount of the loan. If the property owner does not consent to the lien, the Department, at its sole discretion, may accept a lien on other real property as security for repayment of the loan; and
- (c) the Department must determine that the lien will adequately ensure repayment of the loan.

**202.3 Loan Amounts and Payment Responsibilities**

- (a) Applicant shall enter into an Urban Garden and Urban Farm Loan Agreement.
- (b) The loan amount shall be determined by the Department, based upon the total costs of the work. The maximum amount of the loan shall not exceed Ten Thousand Dollars (\$10,000).
- (c) The property owner or applicant shall repay the loan amount to the Department in sixty (60) equal monthly payments.

**202.4 Delinquencies**

Failure by the property owner or applicant to make two (2) consecutive payments shall

constitute Default on the Agreement. The consequences of Default on the Agreement shall be as follows:

- (a) The outstanding balance shall become immediately due and owing without further notice; and
- (b) Interest at the rate charged for water/sewer/stormwater arrearages shall begin to accrue, a penalty fee of five percent of the total loan amount, and the cost of filing the lien will be added to the outstanding balance and as part of the lien. Should the property owner or applicant subsequently satisfy the missed payments, the interest rate shall return to zero; and
- (c) The Department may immediately cease providing water service to the community garden; and
- (d) The urban garden shall not be eligible for a hydrant permit and therefore may not obtain water directly from a hydrant.
- (e) Delinquencies are not subject to Section 100.9 of these Regulations.

## **203.0 COMMUNITY GARDEN STORMWATER CHARGE DISCOUNT**

### **203.1 Purpose**

Philadelphia City Council has determined that Community Gardens should be afforded a discounted stormwater management service charge if they meet certain criteria. Under City Code Section 19-1603, the Philadelphia Water Department is charged with promulgating regulations that define such a program, and subsequently administering it.

### **203.2 Community Garden Criteria**

For purposes of this Regulation, “Community Garden” shall mean any parcel of land in the City of Philadelphia used for growing crops, whether food or non-food, that meets all of the following criteria:

(a) The parcel’s principal use is devoted to regularly-planted crop bed and such other related uses as are reasonable and necessary to growing such crops and maintaining the garden (for example, but not by way of limitation, common areas for hand tool storage sheds or compost bins).

(b) At least 80% of the gross area of the parcel is effectively pervious.

(1) The Water Department may determine a parcel’s effective perviousness by considering the following:

(A) Actual pervious areas that do not meet the definition of Impervious Area (IA) as stated in Philadelphia Water Department Rates and Charges section 4.3(a)(2).

(B) Impervious area that meets the SWMS Credits criteria as defined in Philadelphia Water Department Rates and Charges section 4.5. Any impervious area that meets the credits requirements as provided in Philadelphia Water Department Rates and Charges section 4.5 will be considered effectively pervious under 203.2(b).

(c) The crops are harvested for personal consumption, donation, or sale.

(d) A community, non-profit, or other organization associated for purposes of operating the Community Garden operates the Community garden for public benefit.

(1) The organization/applicant must provide PWD at least one of the following documents to show that it meets the organizational requirement in 203.2(d):

(A) Articles of incorporation.

(B) A list of active gardeners identifying at least one leader.

(C) A letter from an affiliated civic association or community development corporation, the Pennsylvania Horticultural Society, or the Neighborhood Gardens Trust (or equivalent) affirming that the Community Garden meets the criteria in 203.2(d).

(e) The organization/applicant must possess written evidence of the right to use the parcel as a Community Garden.

(1) The organization/applicant must provide PWD at least one of the following documents to show that it has the right to possess the parcel and use it as a Community Garden:

(A) A deed in the name of the organization/applicant.

(B) A lease, license or other similar agreement.

(C) A letter from an affiliated civic association or community development corporation, the Pennsylvania Horticultural Society, or the Neighborhood Gardens Trust (or equivalent) affirming that the Community Garden meets the criteria in 203.2(e).

(D) Other written authorization as may be reasonably satisfactory to the Water Department.

(f) Gardening activities are conducted primarily by members of the organization or group of individuals described in 203.2(d).

(g) The parcel is appropriately maintained so as not to cause blight or nuisance.

### **203.3 Discount**

Subject to approval of a complete application by the Water Department as set forth in 203.4, a parcel meeting the criteria in 203.2 shall be afforded a discounted rate on charges relating to stormwater management and disposal as limited by City Code section 19-1603.

### **203.4 Application Process**

(a) An application for the discount shall be made on a form provided by the Water Department. A complete application includes all of the following:

(1) Documentation evidencing 203.2(d) and (e).

(2) At least one photograph of the parcel, not more than 30 days old, capturing the site characteristics relevant to this Regulation.

(3) An attestation by the applicant to 203.2(a), (c), (f), and (g).

(4) A map of the parcel with labels (soil, grass, pavement, roof, etc.).

(b) An application shall be signed by or on behalf of the group of individuals operating the Community Garden/applicant.

(c) The Water Department may inspect any parcel seeking a discount under this Regulation at any time in order to ascertain



whether it meets the criteria set forth in City Code section 19-1603 and this Regulation.

### **203.5 Renewal**

A discount provided under 203.3 shall expire after 4 years, and may be renewed upon submittal of a complete Renewal Application.

### **203.6 Eligibility; Revocation**

Compliance with City Code section 19-1603 and this Regulation shall be a continuing condition of eligibility for the discount. Applicant's failure to meet these requirements, or a parcel ceasing to be a Community Garden, shall result in a revocation of the discount.

### **203.7 Effective Date of Discount**

(a) When a complete application is received before January 1, 2018 and approved, a discount provided under this Section shall be effective as of the date listed in Philadelphia Water Department Rates and Charges section 5.2(g)(3).

(b) When a complete application is received after December 31, 2017 and approved, a discount provided under this Section shall be effective the date the complete application is received.

### **203.8 Exclusions**

The discount provided under 203.3 shall not include a discount from water and/or sanitary sewer charges.

### **204.0 ENHANCED CAP**

(A) Enhanced CAP is an assistance program that sets limits on a Non-residential property's monthly SWMS charge increase

due to the phase-in of parcel area-based charges, subject to eligibility criteria. Enhanced CAP is an account-based program effective January 1, 2013 and it replaces the SWAPP described in section 203.0 of these Regulations.

(B) Eligibility. To be eligible for Enhanced CAP, an account must meet all of the following criteria:

(i) Account must be for a Non-residential property;

(ii) For a fiscal year with a scheduled rate increase, the current fiscal year monthly SWMS charge must be at least 10% more than the prior fiscal year's monthly SWMS charge;

(iii) For a fiscal year with a scheduled rate increase, the current fiscal year monthly SWMS charge must be at least \$100 more than the prior fiscal year's monthly SWMS charge;

(iv) Account shall not be delinquent in (a) any tax payments to the City or (b) the payment of water/sewer/stormwater charges; and

(v) Account shall not be for a property owned by the City, state, or federal governments, or owned by any quasi-City or City-related agency.

(C) Base Year. The Base Year refers to the fiscal year to which the Enhanced CAP eligibility criteria shall be applied and from which the Enhanced CAP monthly SWMS charge shall be calculated. The Base Year SWMS charge shall be set as follows:

(i) For customers enrolled in SWAPP as of December 31, 2012, the Base Year SWMS charge will be the SWAPP SWMS charge that existed on June 30, 2012.

(ii) For new enrollees in the Enhanced CAP program, the base year SWMS charge will be the SWMS charge that existed on the last day of the prior fiscal year.

(D) Enrollment Period. Eligible accounts may enroll in Enhanced CAP from January 1, 2013 through September 30, 2013.

(E) The Enhanced CAP program is subject to further review, extension, modification or termination in a subsequent Rate Determination.

(F) Assistance.

Eligible accounts shall receive payment assistance in the form of an adjustment towards the account's monthly stormwater bill. Starting January 1, 2013, the adjustment shall be set at such an amount so that the eligible account's monthly stormwater bill during the remainder of Fiscal Year 2013 shall be equal to the account's Fiscal Year 2012 monthly bill plus 10.00% (ten percent). For Fiscal Year 2014, the adjustment shall be set at such an amount so that the eligible account's monthly stormwater bill during that Fiscal Year shall be equal to its Fiscal Year 2013 monthly bill plus 10.00% (ten percent). For Fiscal Year 2015 and any subsequent fiscal year for the duration of the Enhanced CAP assistance program, the adjustment shall be set at such an amount so that the eligible account's monthly stormwater bill during the fiscal year shall be equal to the preceding fiscal year's monthly bill plus 10.00% (ten percent).

## **205.0 LEAD LINE PROGRAM**

### **205.1 Definitions**

As used in this Chapter of these regulations, "Lead Service Line" means a pipe or pipes

made of lead and connecting the City's water supply system to the premises of a customer, and a lead pigtail, gooseneck or other fitting which is connected to the lead pipe or pipes. As used in this Chapter, the Department will consider the Lead Service Line as extending from the City's water main to the meter.

## **205.2 Voluntary Monitoring Program**

A customer with a Lead Service Line or piping with lead solder, whose property meets the Department's required plumbing criteria, and who is preregistered with the Department's lead monitoring program and has successfully completed all of the program requirements to the satisfaction of the Department, will receive a one-time credit of \$50 per successfully completed monitoring event on his/her water bill. Eligibility is subject to the availability of funds allocated by the Department for this program in the current fiscal year, beginning in Fiscal Year 2017. Credits will be awarded on a first come, first serve basis and based on such other criteria as may be established by the Department. Once the total amount of funding allocated for this program in a fiscal year has been utilized, no further credits will be available until the following fiscal year.

## **206.0 INCOME-BASED WATER RATE ASSISTANCE PROGRAM**

### **206.1 Definitions.**

The following words and phrases when used in Sections 206.0 through 206.10 of these regulations have the meanings given to them in this Section unless specifically provided otherwise or unless the text clearly indicates otherwise:

(a) Civil Action: An *in personam* lawsuit filed to collect water and sewer rents. A Civil

Action shall be deemed commenced when a Complaint is filed with the Court of appropriate jurisdiction.

(b) Customer: A natural person who (i) is receiving or (ii) is in the process of requesting or simultaneously requests to receive or restore service from the Water Department at such person's primary residence in Philadelphia. A person shall cease to qualify as a Customer under the second category if his or her application for service is ultimately denied.

(c) Federal Poverty Level or FPL: The Federal Poverty Level, as determined annually by the United States Census Bureau.

(d) Hold: A non-permanent suspension of Litigation.

(e) Income: All regular and periodic income from whatever source derived, including but not limited to salaries, wages, income from self-employment, alimony, support money, cash, public assistance and relief, the net amount of any pensions or annuities including railroad retirement benefits, all benefits received under the Federal Social Security Act (except Medicare benefits), all benefits received under State employment insurance laws and veterans' disability payments, all interest received from the Federal or any State government, or any instrumentality or political subdivision thereof, net income from rentals, workmen's compensation, interest and dividends, and any regular and periodic monetary contributions from a non-household member. Income shall not include overtime; back pay; severance pay; bonuses; tuition reimbursements; loan disbursements; federal or state income tax refunds; lump sum payments of benefits such as loss of time insurance benefits,

death benefits, life insurance benefits and other insurance proceeds; Supplemental Nutrition Access Program ("SNAP") benefits or any other form of surplus food or other relief in kind supplied by a governmental agency; or property tax rebate.

(f) Litigation: A Sheriff's Sale or Civil Action as defined in this Section.

(g) Low-income: Income equal to or less than one hundred fifty percent (150%) of FPL.

(h) Monthly Household Income: The monthly Income received by the Customer and all adults residing in the Customer's household.

(i) Rate Board: The Philadelphia Water, Sewer and Stormwater Rate Board, established pursuant to Section 5-801 of the Home Rule Charter and Section 13-101 of the Philadelphia Code.

(j) Sheriff's Sale: An *in rem* lawsuit filed to collect water and sewer rents, pursuant to the Municipal Claim and Tax Lien Law, 53 P.S. §§ 7101, et seq. A Sheriff's Sale shall be deemed commenced when a Petition pursuant to 53 P.S. § 7283 is filed with the Court of appropriate jurisdiction.

(k) Special Hardship: A hardship condition that may include, but is not limited to, the following: (i) an increase in the Customer's number of dependents in the household; (ii) a seriously ill household member; or; (iii) circumstances that threaten the household's access to the necessities of life if payment of a delinquent bill is required.

(l) Tiered Assistance Program (TAP): The Income-Based Water Rate Assistance Program described in these regulations and Section 19-1605 of the Philadelphia Code.

(m) TAP Payment Agreement: A payment agreement provided to a Customer enrolled in TAP in accordance with these regulations and Section 19-1605 of the Philadelphia Code.

(n) TAP Bill: A bill issued by the Water Revenue Bureau to a Customer enrolled in TAP for service, usage and stormwater charges and any payments toward pre-TAP arrears.

(o) WRB: The Water Revenue Bureau, within the City of Philadelphia Department of Revenue.

## 206.2 Eligibility and Enrollment

(a) A Low-income Customer or a Customer with a Special Hardship may apply to the WRB for enrollment in TAP beginning July 1, 2017. A Customer may submit the required financial and other information through a web-based application, by mail or by hand delivery to WRB's office. A Customer also may provide the required information to a customer service representative.

(1) A Customer who demonstrates Monthly Household Income at or below 150% of the Federal Poverty Level shall be deemed to have satisfied the financial or Special Hardship eligibility requirement.

(2) Applicants for enrollment in TAP due to a Special Hardship condition must demonstrate a Special Hardship condition within the prior twelve (12) month(s). Such evidence of a Special Hardship condition will usually be in writing including, but not limited to, any of the following:

(A) For a job loss that extends beyond four (4) months: termination notice,

resignation letter, layoff notice, Pennsylvania Unemployment Compensation Claim Confirmation Letter (Form UC-360) or comparable out of state form, newspaper article.

(B) For a serious illness that extends beyond nine (9) months: a written certification as set out in 100.10 of the Water Department's regulations, a decision letter from Social Security Administration for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI), medical bills.

(C) For the death of the primary wage earner: death certificate, obituary.

(D) For domestic violence: a Protection From Abuse (PFA) order issued to the Customer and currently in effect, or a written notice from the Pennsylvania Department of Human Services (DHS) granting the Customer a good cause waiver to a Temporary Assistance for Needy Family (TANF) or General Assistance (GA) program based on a domestic violence determination and currently in effect.

(E) For additional dependent children in the household: birth certificate, baptismal certificate, hospital records, written certification of the child's doctor, proof of guardianship.

(F) For additional elderly, disabled, returning veteran, and other dependents: Federal Income Tax Returns.

(G) For circumstances that threaten the household's access to the necessities of life if payment of a delinquent bill is required, a Customer may request an individual financial assessment comparing household income and expenses in order to

demonstrate a Special Hardship. The WRB will consider the following household expense: rent or mortgage, utility bills, telephone, food, medical bills, transportation, laundry, clothing, toiletries, taxes, insurance and other reasonable expenses.

(H) Other forms of evidence will be referred to a WRB Supervisor.

(b) Prior to enrolling a Customer in TAP, and upon each recertification of eligibility, WRB or its designee shall determine whether, on the basis of such Customer's historical usage as shown on his or her prior monthly bills and any pre-TAP arrears, the Customer would receive more affordable bills under another available payment agreement or rate discount, such as the senior citizen discount. Historical usage shall not include significant usage attributable to leaks or activities not customary to a residential setting. If, based on such a determination, the monthly TAP Bill would be higher than the payment the Customer would need to make under another available payment agreement or rate discount, then the Customer will not be eligible for enrollment or re-enrollment in TAP. A Customer enrolled in TAP will not be eligible for an additional discount as an income-eligible senior citizen.

(c) A Customer may have a community based organization, attorney, family member, representative, interpreter or other person present to assist the Customer during in person meetings with WRB regarding TAP enrollment, TAP Payment Agreements, or other WRB determinations related to TAP.

(d) A Customer who would not receive a more affordable bill under another available payment agreement and rate discount shall be enrolled in TAP upon approval of a completed application on or with which the applicant shall be required to provide proof

that he or she: (i) is a resident at the property in question; and (ii) qualifies for TAP as a Low-Income Customer or a Customer with a Special Hardship.

(e) Income or Inability to Pay.

(1) To establish income for the Customer and all members of his or her household, a Customer may produce Federal Income Tax Returns, pay stubs, W-2 forms, and benefit award letters.

(2) Social security numbers or other identification shall not be required for minors, for person over the age of sixty-five (65) or for disabled persons. A Customer who has supplied social security numbers or other tax identification number for all other household residents shall have satisfied this requirement. Where a household member is unable to provide an otherwise required tax identification number, the WRB may accept a signed affidavit for good cause shown. To establish disability under this Section, a Customer must produce a copy of an award letter issued by the armed services, Social Security Administration, SSI, Railroad Retirement or Black Lung or comparable official documentation of disability benefits.

(3) Where the WRB possesses inconsistent information or for other good cause shown, the WRB may request additional documentation to substantiate Customer's actual income.

(4) WRB will accept determinations of income made within the prior twelve (12) months pursuant to Section 19-1305 of the Philadelphia Code.

(5) Customers who report household income as zero dollars (\$0) at the time of enrollment or re-enrollment may be required to complete a "Zero Income Form" which

will require that the Customer provide the address where service is provided, an explanation of how household expenses are met, and such other information as WRB in its discretion may require.

(f) Residency.

To establish residency under this Section, the Customer must submit documents from any two (2) separate categories in paragraphs (1) through (10) below or provide a determination of the Customer's residency made within the prior twelve months pursuant to Section 19-1305 of the Philadelphia Code. Documentation must include the Customer's name and the property address. Acceptable documents include:

(1) Government-issued ID that has not expired: Photo ID issued by the U.S. Federal Government or the Commonwealth of Pennsylvania (including the Department of State Voter ID Card); PA Driver's License or Non-Driver's License Photo ID; U.S. Passport; U.S. Military ID; or Employee Photo ID issued by U.S. Federal Government, Commonwealth of Pennsylvania, Pennsylvania County or Municipal government.

(2) Utility Bills: the WRB shall accept Philadelphia Gas Works (PGW), Water Revenue, PECO, cable, or landline telephone bills as proof of residency if the Customer presents at least two bills from at least two different months from within the last 6 months. The two bills may be for the same utility service or for two different utility services.

(3) Voter Registration Card.

(4) Employment/Income Tax records: At least two pay stubs from

current employer from the last 6 months; most recent year's W-2 form; or most recent year's state or federal income tax records.

(5) Government-issued benefit or award letter (federal, state, or local) from the last 12 months: Social Security, SSI, DHS, or SNAP (food stamp) benefit award letter or COMPASS printout; Unemployment compensation award letter; LIHEAP award letter; or Homestead Exemption award letter or OPA print-out showing Homestead Exemption has been approved.

(6) At least two mortgage statements from the last six (6) months.

(7) At least two student loan billing statements from the last six (6) months.

(8) At least two bank statements from the last six (6) months.

(9) A written lease and/or rent receipts for the dwelling that cover the last six (6) months.

(10) Other forms of evidence will be referred to a WRB Supervisor.

(g) Customer Responsibilities

(1) The TAP application and recertification forms shall inform the Customer of his or her responsibilities for continued enrollment in TAP, require the Customer to agree to abide by the Customer responsibilities, and inform the Customer of the consequences of failing to abide by the Customer responsibilities.

(2) Customers whose service is off due to an uncorrected notice of violation or defect, or a determination that providing

service would endanger life, health, safety or property must correct the violation and/or make any necessary repairs before service will be restored.

(h) TAP Enrollment Confirmation.

Upon a Customer's acceptance into a TAP agreement, the WRB shall provide a written statement setting forth the terms and conditions of the Customer's participation in TAP. The statement shall include the following information, as appropriate:

- (1) the monthly TAP Bill amount;
- (2) the amount of arrears owed prior to enrollment in TAP;
- (3) the requirement that the Customer pay TAP Bills issued upon receipt;
- (4) a brief explanation of the consequences of nonpayment of TAP Bills;
- (5) a brief explanation of the Customer's right to cure any noncompliance with the TAP agreement; and
- (6) a brief explanation of the customer responsibility and recertification requirements for continued enrollment in TAP.

(i) No person shall intentionally make any false statement when applying to enter into a TAP agreement. If it is determined that a Customer entered into a TAP agreement on the basis of an intentionally false statement, the agreement shall be null and void.

### **206.3 Decisions in Writing**

(a) Written Decisions.

Any decision or determination of the WRB relating to (i) initial or continued eligibility

for TAP, (ii) a TAP Payment Agreement, (iii) the amount of TAP or other arrears for which the Customer is responsible, (iv) the completeness of a Customer's application, and the adequacy or completeness of any documentation submitted in connection with an application for a TAP Payment Agreement, or (v) the Customer's performance of his or her obligations under a TAP Payment Agreement, shall be provided to the Customer in writing, and shall include a specific reason for the decision or determination, and a statement of the Customer's right to an administrative hearing to dispute such decision.

(b) Administrative Appeals.

A Customer may request the Tax Review Board to review any adverse final decision or determination of the WRB relating to initial or continued eligibility for a TAP agreement, the Customer's performance of his or her obligations under a TAP agreement, or the amount of TAP or other arrears for which the Customer is responsible.

(c) Language Access/Non-English Speakers.

Consistent with applicable law and policy, the WRB shall take reasonable steps to ensure meaningful access to written decisions issued pursuant to subsection (a) of this Section for Limited English Proficient (LEP) persons. Such steps shall include providing translations of all such written decisions and advising LEP persons that telephone interpreter services are available.

### **206.4 TAP Bills**

(a) Customers who are enrolled in TAP will receive a monthly TAP Bill for the Customer's current service, usage and stormwater charges. TAP Bills for Low-income Customers enrolled in TAP shall be

calculated in accordance with the schedule of rates and charges issued by the Rate Board for Low-income Customers enrolled in TAP.

(b) TAP Bills for Special Hardship Customers whose Monthly Household Income is greater than 150% of FPL will be calculated at 4% of the Customer's Monthly Household Income.

(c) Timely payment of his or her monthly TAP Bill shall satisfy all of a Customer's current liabilities for service, usage and stormwater charges, so that there is no addition to his or her arrears for service, usage or stormwater charges. Timely payment shall be payment postmarked or received within one month of the payment's due date.

(d) Any amount paid for a monthly TAP bill in excess of the customer's current service, usage and stormwater charges as shown on the TAP bill shall reduce the balance of his or her arrears.

### **206.5 TAP Payment Agreements**

(a) Customers enrolled in TAP and who apply for a payment agreement to pay the unpaid balance on TAP bills will be offered TAP Payment Agreements.

(b) TAP Payment Agreements for Low-income Customers who are enrolled in TAP shall not require the Customer to make additional payments in respect to pre-TAP arrears for service, usage and stormwater charges to maintain service.

### **206.6 Removal from TAP**

(a) A Customer enrolled in TAP may request to be removed from TAP at any time.

(b) A Customer will be removed from TAP if the Customer is no longer eligible for TAP due to a change in household income or household size.

(c) In addition to removal from TAP pursuant to Section 206.6(a) and (b) of these regulations, a TAP Customer may be removed from TAP for submitting intentionally false enrollment or re-certification information/documentation, unauthorized use of service, failure to recertify upon request by WRB, or failure to accept and reasonably maintain free conservation services offered by the Water Department.

(d) Customers removed from TAP for submitting intentionally false enrollment or re-certification information/documentation or unauthorized use of service shall be back-billed for previously unbilled usage and/or for the amount by which the Customer's monthly service, usage and stormwater charges if billed at rates applicable to general Customers would have exceeded the amounts actually billed on the Customer's monthly TAP Bill during the period of enrollment in TAP.

(e) When a TAP Customer is removed from TAP, the balance on all past unpaid TAP Bills and whatever debt remains on pre-TAP arrears becomes immediately due.

(f) WRB will not re-enroll a Customer in TAP for a one-year period (unless specifically identified elsewhere below), if the TAP Customer:

(1) submits intentionally false enrollment or re-certification information or documentation;



(2) provides water for use at a location other than the Customer's primary residence; or

(3) refuses to take necessary actions to accept and reasonably maintain any free conservation measures offered to the Customer by the Water Department, Customer will not be eligible for re-enrollment until services are accepted.

(g) The Water Department and WRB reserve the right to periodically audit TAP Customers to confirm continued eligibility.

### **206.7 Earned Forgiveness**

If a Customer maintains continuous enrollment, the Customer will obtain forgiveness of outstanding arrears under the following conditions:

(a) A Customer maintaining enrollment in TAP, who makes twenty-four (24) complete monthly payments of the TAP Bill, will earn forgiveness of penalty charges on pre-TAP arrears.

(b) After each year of continued enrollment in TAP, any arrears older than fifteen years will be removed in accordance with Philadelphia Code Section 19-1605(1).

(c) A Customer maintaining continuous enrollment in TAP who makes twenty-four (24) complete monthly payments of the TAP Bill on or after September 1, 2020, will earn forgiveness of pre-TAP arrears. The credit for the pre-TAP arrears will be applied to the Customer's account on or after the twenty-fourth (24<sup>th</sup>) complete monthly payment of the Customer's TAP bill during such period of enrollment.

(d) In the event that a Customer is unable to maintaining enrollment in TAP for twenty-

four (24) consecutive months due to a change in household income that results in a determination that the Customer is no longer eligible for enrollment in TAP, forgiveness of pre-TAP arrears will be earned on the last day of the enrollment period and applied to the Customer's account on or after the last day of enrollment with the amount of forgiveness of pre-TAP arrears determined by multiplying the amount of the Customer's pre-TAP arrears at the time of initial enrollment by 1/24 by the number of complete monthly payments of TAP Bills issued on or after September 1, 2020.

### **206.8 Stay of Enforcement**

(a) If a Customer maintains continued enrollment in TAP, a Hold shall be placed on the Customer's account.

(b) This Section shall not apply to charges owed for HELP loans or any charges other than water or sewer rents (including stormwater charges) owed to the Water Department/Water Revenue Bureau.

### **206.9 TAP Recertification**

(a) Upon written request of WRB and no more frequently than once every year, a Customer must re-certify to WRB his or her income, eligibility and/or Special Hardship condition.

(b) In the event of a change in household income or household size, prospective TAP Bills will be calculated according to these regulations and the Water Department's rates for customers enrolled in TAP. Such recalculation shall be done promptly at the request of the Customer. A Customer also may request a determination or redetermination of Special Hardship at any time he or she experiences a change in circumstances. In the event of a change in

household income that results in a determination that the Customer is no longer eligible to participate in TAP, such Customer shall receive the benefit of any forgiveness earned during the period of enrollment in TAP.

(c) Prior to recertifying a Customer as eligible for TAP, WRB shall determine whether the Customer would receive more affordable bills under another available payment agreement or rate discount in accordance with the procedures set forth in Section 206.2(b) of these regulations.

(d) Prior to recertifying a Customer as eligible for TAP, WRB shall determine if there are any unpaid TAP Bills. If there are any unpaid TAP Bills that are not part of a TAP Payment Agreement at the time of recertification, the Customer will be offered a TAP Payment Agreement if the Customer has not been offered a TAP Payment Agreement for unpaid TAP Bills during the prior twelve (12) months. A Customer may be required to pay amounts due on unpaid TAP Bills or a previously offered TAP Payment Agreement prior to WRB recertifying the Customer for TAP if the Customer is not eligible for a TAP Payment Agreement pursuant to this section.

#### **206.10 Conservation Measures.**

(a) Each Customer enrolled in TAP shall agree to accept and reasonably maintain any free conservation measures offered to the Customer by the Water Department.

(b) Failure to accept and/or reasonably maintain the free conservation measures offered by the Water Department shall result in the Customer's removal from TAP as set forth in Section 206.6(c) of these regulations.

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**CHAPTER 3**  
**RATES AND CHARGES**  
**[RESERVED]**  
**See current Rates and Charges.**

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## **CHAPTER 4 WATER**

### **400.0 SPECIFICATIONS FOR WATER SERVICE CONNECTIONS**

The following are the specifications required by the Water Department (Department) for water service connections.

#### **400.1 Water Connection Pipe**

Water Connection Pipe for all water service connections shall:

- (a) be trench laid or bored so that the service pipe is not used in the boring process. Ferrules shall not be installed in tunnel;
- (b) be of the same size as the meter except as otherwise provided. Minimum size  $\frac{3}{4}$  inch (Single line residential fire sprinkler system (RFSS) services providing both domestic and fire supply and designed under the NFPA 13D Standard may have a water meter that is sized smaller than the service line, providing that an approved Fire Suppression System Permit (issued by the Department of Licenses and Inspections) exists to confirm that the meter size is sufficient to meet the domestic and fire requirements for the specific property.);
- (c) be at all times accessible for inspection inside the property from the entrance point to the meter;
- (d) be backfilled with neutral sand completely around the connection pipe and fittings except where bored. The sand backfill shall extend six (6) inches under and over the water main for the full width of the trench;

(e) be laid at least four (4) feet below the confirmed grade or the existing grade when grade has not been confirmed;

(f) include provision for meter installation by the Department;

(g) be free of paint or joint compound at joints between the water main and the meter.

#### **400.2 Ferrule Connection Pipe**

Ferrule Type Connection Pipe (2 inches and smaller) from the ferrule to the curb-stop shall be installed, repaired or replaced by or under the direction of a licensed master plumber, and shall:

(a) be copper tubing, ASTM Spec. B-88, type K in soft temper with approved red brass fittings; or

(b) be polyethylene service pipe, ASTM D 3350, as required, Water Department Standard Spec. W-21:

(1) When the minimum distance from the curb-stop to the building line is eight (8) feet six (6) inches; or

(2) When the Department of Licenses and Inspections permits the use of polyethylene distributing pipe from the curb-stop to the building line.

(c) be at least five (5) feet in length with block supports where required, and include provision for expansion in accordance with Department standards;

(d) include a Department approved curb-stop and box located:

(1) Eighteen (18) inches behind the face of adjacent curb when the water main is

located in the cartway or in the opposite footway; or

(2) As directed by the Water Department when the water main is located in the abutting footway.

#### **400.3 Valve Connection Pipe**

Valve Type Connection Pipe (3 inches and larger) shall:

- (a) include a meter by-pass of the same size as the meter;
- (b) include approved by-pass valve, scaled closed by the Department.

#### **400.4 General Requirements**

- (a) Distributing Pipe from the curb line (or the curb-stop where required) into the premises, shall be in accordance with the Plumbing Code/Philadelphia Code.
- (b) All Water-Supply Systems three (3) inches and larger shall be disinfected in accordance with procedure set forth in the latest Department Standard Specification for Disinfecting Water-Supply Systems.
- (c) Whenever a service connection is repaired or replaced, it shall be in accordance with rules governing new service connections. When repair or replacement is between the main and the curb stop, such service connection shall be attached to the main by a ferrule not less than ¾-inch in size.
- (d) Two or more water connections shall not simultaneously supply a single larger supply pipe unless specifically permitted by PWD in writing.

#### **400.5 Water Service Connections to Property Owners Served by a Privately Owned Water Infrastructure.**

The City, at its sole discretion, may permit property owners in a common interest community served by privately owned water infrastructure to connect to the City's water main for water service and be separately metered by the Department if all of the following conditions are met:

- (a) The developer or unit owners' association has entered into an agreement with the City guaranteeing to build the private water infrastructure according to the Department's specifications and standards.
- (b) The Department has inspected the completed private water infrastructure and has certified that it meets the Department's specifications and standards.
- (c) Prior to installation, the Department has approved the locations of the meter boxes so that they comply with the Department's Regulations and current standards for collecting meter data. At no time will approval be granted if the distance between the first individual meter installed after the main connection and the water main is greater than thirty-five (35) feet.
- (d) The properties are served by a unit owners' association that is obligated to maintain the private water infrastructure.
- (e) The developer or unit owners' association has recorded a declaration against each property which includes the following provisions:
  - (1) A grant of irrevocable utility access for the City for the purposes of reading, maintaining, repairing and

replacing City meters, initiating and terminating service; and

(2) A restriction against the sale or transfer of the common areas in which the private water infrastructure is located; and

(3) Notification that the unit owners' association, and each member thereof, shall retain full legal and financial responsibility for the ownership, maintenance, repair and replacement of the private water infrastructure; and

(4) Establishment of an escrow account in a City-approved amount reasonably calculated to provide for the maintenance, repair and replacement of the private water infrastructure.

(f) An individual curb stop and box has been installed for each property.

(g) A master valve has been installed at the point of connection between the private water infrastructure and the City's water main.

(h) All private infrastructure connections to the City's mains are in full compliance with the Department Regulations and all other applicable laws and regulations.

#### **401.0 WATER METERING REQUIREMENTS**

##### **401.1 General Provisions**

(a) Service connections to the City's water mains shall be metered by a City water meter (hereinafter "meter") for the purpose of recording usage, and for billing and collecting charges for services provided by the City. Fire service lines and domestic water lines shall be separate and separately metered except as provided for in Section

404.0 of these Regulations relating to Residential Fire Sprinkler Systems.

(b) The Department reserves the right, at its sole and exclusive discretion, to approve any service connections that are not metered when the Department determines that metering is impracticable.

(c) Property owners and/or Customers are required to notify the Department immediately if there is no functioning meter for recording usage at any premises served by City water mains.

(d) The City's meter includes the meter body, the register and any associated hardware, equipment and devices for remotely collecting meter data.

##### **401.2 City Water Metering**

(a) The meter is the property of the City, and except as provided in Section 401.3 of these Regulations, the City is solely responsible for testing, maintaining, repairing and replacing the meter so that it remains operational in accordance with accepted utility standards for meter performance.

(1) All new meters shall be tested to confirm performance within industry standards before installation at a property.

(2) All previously used meters shall be tested prior to reinstallation at a property.

(3) A Customer may apply to the Department for a test of the accuracy of a meter as provided for in Section 306.1 of these Regulations.

(b) Meters shall be replaced regularly in accordance with industry standards for meters of the types and sizes provided by the City.

### 401.3 Property Owner

(a) The property owner shall set up the plumbing at the property to provide for the installation of the meter by the City. The plumbing shall include both an inlet valve and an outlet valve which shall be located as close as practicable to the meter, but allowing clearance for the flange bolts and couplings. The meter location must be easily accessible for the meter installation; if it is not, the Department may require the property owner to change the plumbing.

(b) All meters located inside a property shall be set as close as possible to the point where the water service pipe enters the property.

(1) When the building is set back more than thirty five feet (35') from the building line of the street in which the City's water distribution line is located, the property owner must provide the following facilities:

(A) If the meter is one inch (1") or smaller, the meter shall be installed in a meter box of a design approved by the Department; or

(B) If the meter is one and-a-half inches (1½") or larger, the meter shall be installed in a meter pit of a design approved by the Department; and

(C) The meter box or meter pit shall be in a location approved by the Department.

(2) For the installation of meters three inches (3") or larger, the property owner shall submit a metering plan, and shall have secured the approval of the Department's Meter Unit of such metering plan before the service connection is made.

(c) The property owner shall choose a meter size that will insure accurate registration of use without excessive wear.

(1) If a meter shows excessive wear due to excessive rates of flow (as defined by the meter standards set by the American Water Works Association), the Department may require the property owner to increase the size of the service connection and meter, or provide an additional water service connection and meter.

(2) If a meter is registering low water use for the size of the chosen meter, such that the meter is inaccurately registering water use, the Department may require the property owner to decrease the size of the meter to improve meter accuracy.

(3) Any decrease in size from a meter three inches (3") or larger to a meter two inches (2") or smaller shall require a service line replacement. In such cases, the Department shall waive the discontinuance of water charge for the larger service line and the ferrule connection charge for the smaller service line.

(4) Any changes in meter size or water service lines whether at the choice of the property owner or as required by the Department shall be at the expense of the property owner.

(d) As a condition of service, the property owner, Tenants or other occupants shall permit the City or its authorized agent reasonable access to the premises for the purpose of:

(1) installing a meter on any water service providing City water to the property as provided herein;

(2) repairing or replacing a meter in accordance with City policies;

(3) collecting water use data; and

(4) investigating meter-related problems including remote meter data collection failures, meter accuracy, illegal conditions and meter tampering.

(e) The failure to provide reasonable access to the premises for the metering purposes in Sub-section 401.3(d) of these Regulations shall result in the suspension of water service until such access is provided, in accordance with Sub-section 401.8(a) of these Regulations.

(f) The owner of an un-metered property shall apply for a permit from the Water Permit section of the Department of Licenses and Inspections and pay the established permit charge. The permit charge includes the installation of the meter by the Department. Upon securing the permit and completing the plumbing required for the meter installation, the property owner shall request the Department to install the meter. The Department shall, by appointment with the property owner, install the meter and seal it on the line. Meter seals are used to detect unauthorized tampering or removal of the meter.

(g) Upon installation, the property owner shall be responsible for safeguarding the meter, meter components and the meter seals, and shall pay for necessary repairs and replacements due to any failure to provide adequate protection to the meter and seals from theft, vandalism, freezing, tampering or other damage. The costs of repair or replacement shall be in accordance with the established charges for meters and related services. The property owner shall also be responsible for the City's costs of

investigating meter theft, vandalism, freezing, damages related to freezing or tampering incidents. City charges for such investigations shall be in accordance with the established charges.

(h) The property owner shall be responsible for the repair and maintenance of the plumbing that is accessory to the meter, such as inoperable or leaking valves and curb stops, weakened pipes and fittings, and shall provide and pay for such plumbing, repair and maintenance as City metering needs may require.

(i) The property owner, Tenant or other occupant shall not obstruct the meter so as to deny ready accessibility to the City for meter reading (including remote meter data collection), inspection, maintenance, repair or replacement.

(j) Only City personnel and the City's authorized agents are permitted to move or remove the meter. In order to make plumbing repairs or alterations, a licensed plumber must obtain prior permission from the Department to break the meter seals and remove the meter from the water line. A meter may be removed in an emergency, but a licensed plumber must promptly notify the Department. The meter may not be removed from the premises. When the plumber's work is completed, the plumber shall notify the Department to reinstall and reseal the meter.

#### **401.4 Illegal Conditions**

(a) The property owner and/or Customer shall not arrange for, establish, or permit to continue, any plumbing arrangement that can be used to bypass the meter, or allow unmetered water to enter the premises or any other premises, or in any way limit the meter's effectiveness in measuring water



consumption. Such conditions may constitute a theft of water service, and the responsible parties may be fined or otherwise prosecuted under applicable law.

(b) The City may suspend water service to any property with an illegal condition until that condition has been corrected to the satisfaction of the Department.

(c) In addition to any other charge, fines or penalties for such conditions, the property owner and/or Customer shall be responsible for investigation costs in accordance with the established charges.

#### **401.5 Metering by Property Owner**

(a) Private Meters: A property owner may install a private meter that is secondary or a sub-meter in the property to measure water used for its own purposes. Such meters shall be purchased, maintained and repaired at the property owner's expense, and they may be installed only on the premises side of the City meter.

(b) Open Fire System Meters: When an open fire system is metered, the property owner is responsible for the cost of the testing, repair and maintenance of the meter, and for its replacement when required.

(1) The property owner may request the Department to test, repair, maintain or repair the meter, and such costs shall be billed to the property owner.

(2) If the property owner fails to pay for such maintenance, repair or replacement, the account shall be placed on full billing as a General Customer for water service and, if applicable, sewer service.

#### **401.6 Non-compliant Conditions**

(a) Missing Meter: Where the City has supplied water service and there is no water meter to record use, the Revenue Department shall determine the quantity of water used based on the type of premises and service size. The property owner or Customer shall be provided with and billed for a new water meter. The Customer shall also be billed the City's additional and reasonable costs of calculating the bills for the unmetered service.

(b) Tampering: Where the City determines that a water meter has been tampered with, and as a result, the meter reading is an inaccurate record of water consumption, the Revenue Department shall determine the quantity of water used, based on the type of premises and meter size. The Customer shall also be billed the City's additional and reasonable costs of calculating the bills for tampered service. The Customer may also be subject to Section 401.4 of these Regulations.

(c) Defective Meter: Where the Water Department has determined the water meter to be defective, the Revenue Department shall determine the quantity of water used based on the usage for the periods prior to the meter becoming defective or by the type of premises and meter size. If the meter was damaged due to vandalism, freezing or tampering, the property owner or Customer shall be provided with and billed for a new water meter. The Customer shall also be billed the City's additional and reasonable costs of calculating the bills for the unmetered service.

(d) Illegal Condition Charges: Where the City determines that an illegal condition exists, and as a result of the illegal condition, the meter reading is an inaccurate record of water use, the Revenue Department shall determine the quantity of

water used, based on the type of premises and meter size. The Customer shall also be billed the City's additional cost of calculating the bills. The Customer and/or property owner shall also be subject to Section 401.4 of these Regulations.

#### **401.7 Backflow Prevention**

In setting up the plumbing of the premises, the property owner is required to comply with Department regulations and the Philadelphia Plumbing Code to protect the public water supply from backflow from the property owner's premises.

#### **401.8 Noncompliance**

(a) Failure to comply with the requirements of this Regulation shall result in the suspension of water service until such requirements are complied with. Proper notice of suspension procedures shall be provided as specified in the Department's current Commercial and Residential Service regulations.

(b) If the City is unable to suspend water service due to conditions at the premises that are in violation of law, the City may bring the property into compliance by itself or by employing plumbers or other tradesmen to perform the work. The property owner shall be responsible for the costs of compliance and shall be billed for such costs by the City.

#### **402.0 USE OF FIRE HYDRANTS**

(a) The Water Main Section of the Department shall issue permits for use of standard fire hydrants when no other adequate source of water is available, and in the opinion of the Department such use will not jeopardize the rights of the public.

(a) The charges for permits shall be:

(1) for use within a one week period, the current 3/4" minimum semiannual charge and allowance of water shall apply;

(2) for use within a six (6) month period, the current 1 1/2" minimum semiannual charge and allowance of water shall apply;

(3) for use in the hydrostatic test of tanks of large capacity, filling swimming pools other than domestic, or similar use, the charge for water shall be the current general service charge for water used above the cycle allowance. If the water is to be discharged into a sewer, the sewer charge shall be based on the current general service percentage charged for a 4" metered service;

(4) for excessive use or waste of water, additional charges may be assessed at the current rate for water used above the stated allowance;

(5) for use by a contractor in performing work under a contract with the City, the permit shall be issued at no charge upon presentation of a statement signed by the engineer representing the City.

#### **402.1 Charities**

There shall be no charge for permits for use of fire hydrants by charitable, non-profit and governmental agencies when approved by the Department.

#### **402.2 Revocation**

Permits may be revoked for cause at any time.

## 403.0 BACKFLOW PROTECTION

In order to protect the public water supply from potential cross connection and backflow hazards, any connection to the City main, including both domestic and fire service connections within a property and connections to City fire hydrants, shall be provided with adequate backflow protection by the property owner or the water user.

### 403.1 Requirements

(a) With the exception of single family residences and multi-family buildings with four (4) units or fewer, the requirements of this Regulation shall generally apply to all water-using structures and systems, regardless of their sizes, plumbing types and water usage patterns. Where the Department has determined that backflow prevention measures are needed at any specific single family residence or multi-family building with four (4) units or fewer in order to protect the public water supply, this Regulation shall also apply to that building. Backflow prevention measures include but are not limited to the following requirements.

(1) Any domestic and fire protection service line, including each line of a multiple service line, to any property, shall be equipped with an approved backflow prevention device or an approved air-gap separation on each line. Backflow prevention devices or air-gap separations must be installed where designated by the Department at the sole expense of the property owner. Backflow prevention devices or air-gap separations must be from an approved Department list or otherwise approved by the Water Department. Installers must refer to the latest edition of the *Water Department Cross Connection Control Manual*, for installation

requirements and listings of approved backflow prevention devices. This manual is available upon request from the Department and the Department of Licenses and Inspection.

(2) All other connections to the City water main, including standpipes leading to elevated tanks, temporary ferrules and hose connections, shall be equipped with approved backflow prevention devices.

(3) Only persons certified by the City's designated certification organizations shall install, test and service backflow prevention or air-gap separation devices. Installers are subject to all requirements of the Philadelphia City Code and regulations of the Department and the Department of Licenses and Inspection.

(4) All required backflow prevention or air-gap separation devices shall be tested by certified service persons at least once every twelve (12) months. Any newly installed backflow prevention or air-gap separation device shall be tested prior to the initiation of service. The property owner shall be responsible for arranging for testing, for all costs of testing and related maintenance. Test results shall be submitted to:

Philadelphia Water Department  
Bureau of Laboratory Services  
1500 E. Hunting Park Avenue  
Philadelphia, PA 19124-4941.

Property owners shall be responsible for maintaining records of such tests and related maintenance for a period of three (3) years. Backflow prevention and air-gap separation devices shall be maintained and kept in operating condition at all times. Backflow prevention and air-gap separation devices shall be tested whenever failure is suspected.

(5) The service of water to any premises or at any connection may be shut off by the Department if it determines there is inadequate backflow protection at the service connection and/or any connection to the main, or a failure to maintain the backflow prevention or air-gap separation devices.

#### **404.0 RESIDENTIAL FIRE SPRINKLER SYSTEMS (RFSS)**

When a residential property owner installs a residential fire sprinkler system using a single line to serve the domestic and sprinkler plumbing systems (“RFSS”) in accordance with the National Fire Protection Association (NFPA) 13D standard or equivalent, such RFSS shall be in accordance with the following:

##### **(a) Single Water Service Line**

(1) A single water service line from one ferrule connection to the water main shall supply water to the domestic water and sprinkler plumbing systems.

(2) The service line shall be one of the following sizes: ¾”, 1”, 1 ½”, 2”.

##### **(b) Internal Plumbing Configuration**

(1) Inside the building and after the meter, the water supply line may:

(i) branch to separate sprinkler system and domestic water system lines (“Branch System”), or

(ii) continue as one line that serves both the sprinkler and domestic water systems in a comingled network system (“Network System”) in accordance with Philadelphia Code.

##### **(c) Metering**

(1) A Department-approved RFSS meter shall be installed on the water supply line. In a Branch System, the meter shall be installed upstream of any branching of the domestic water line and sprinkler system line.

(2) Meter sizing, piping, valving and appurtenances shall be according to PWD Regulations. PWD shall provide, and the property owner shall maintain, the meter according to PWD Regulations.

##### **(d) Permit and Customer Account**

(1) The property owner is subject to PWD Regulations and Philadelphia Code governing permits and charges.

(2) The property owner is subject to PWD Regulations governing Customer accounts with the Water Revenue Bureau (“WRB”).

##### **(e) Water Quality Protection**

(1) Subject to Sections (e)(2) and (e)(3) below, the following applies to the two internal plumbing configurations defined in Section B above:

(i) No water quality protection is required in a Network System.

(ii) In a Branch System, a water supply line shall be installed from a sprinkler head to the toilet tank that is farthest from the point where the water supply line enters the building (“Far Toilet”). The sprinkler system installer shall affix a permanent sign to the sprinkler system piping noting that the sprinkler

system line is connected to the Far Toilet.  
This sign shall not be removed.

(2) Backflow prevention measures may be required on an RFSS installation if PWD determines it is necessary under Regulation 403.1(a) or under (e)(3) below.

(3) A Department-approved backflow prevention device shall be installed on a dedicated sprinkler line if additives, such as antifreeze chemicals, are used.

(f) Materials

All RFSS piping, fixtures, and other plumbing materials shall conform to Philadelphia Code and Regulations.

(g) Installation, Inspection, Testing and Maintenance

RFSS installation, inspection, testing and maintenance shall be according to Philadelphia Code.

(h) Shutoff Policy and Notification

The property owner is subject to existing rules governing shutoff of service under these Regulations.

**CHAPTER 5  
SEWER & WASTEWATER CONTROL**

**500.0 CROSS CONNECTED SEWER  
LATERALS**

**500.1 Definitions**

(a) City shall mean the City of Philadelphia acting through its Water Department (Department) or other City departments.

(b) Cross Connection shall mean a connection of sewer lateral(s) to the sewer main(s) such that a Dye Test, as herein defined, has demonstrated that flow in the sanitary sewer lateral discharges only to the City's municipal separate storm sewer system.

(c) Dye Test shall mean a test utilizing water-soluble dyes conducted by the City for the purpose of investigating the discharge of sewage into the municipal separate storm sewer system.

(d) Internal Cross shall mean the connection of particular plumbing fixture(s) within the property such that a Dye Test, as herein defined, has demonstrated that the flow from these particular plumbing fixture(s) within the property discharges to the municipal separate storm sewer system while flow from the other plumbing fixture(s) within the property discharges to the sanitary sewer.

**500.2 General Policy**

Cross Connections and Internal Crosses result in the discharge of untreated sewage into rivers and streams. Cross Connections and Internal Crosses are public nuisances and are prohibited by the Philadelphia Code, the Pennsylvania Clean Streams Law and the federal Clean Water Act. The

investigation of Cross Connections and Internal Crosses is necessary for the health and safety of the public. The hindrance of Cross Connection investigations or Internal Cross investigations is prohibited. Cross Connections or Internal Crosses that are identified must be promptly abated.

**500.3 Investigation of Cross Connections**

As a condition of water and sewer service, the City shall be permitted access to all properties for the purpose of conducting Dye Tests and other investigations to identify Cross Connections.

**500.4 Abatement of Cross Connections**

(a) When a Cross Connection has been identified by a Dye Test, the Department shall notify the property owner, and the Department shall arrange for and bear the cost of the abatement of the Cross Connection.

(b) The property owner and any other occupant shall cooperate with the Department to abate the Cross Connection.

(1) The property owner and any other occupant shall provide the City, its agents or contractors with access to the property for testing, developing work orders, plumbing repair, inspections and other necessary or desirable work.

(2) Failure to comply with this Section may result in the suspension of water service and/or imposition of other penalties established by law.

**500.5 Investigation of Internal Crosses**

As a condition of water and sewer service, the City shall be permitted access to all properties for the purpose of conducting Dye

Tests and other investigations to identify Internal Crosses.

### **500.6 Abatement of Internal Crosses**

(a) Except as provided in Section 500.6(e) of these Regulations, when an Internal Cross has been identified at a property, the property owner shall arrange and bear the cost of the abatement of the Internal Cross.

(b) Internal Crosses shall be abated within thirty (30) days from the date of notification by the City, or such shorter period as determined necessary by the City to protect public health and safety or the environment. The City's notification shall state the time period granted for abatement. Failure to promptly abate the Internal Cross may result in the suspension of water service and/or the imposition of other penalties established by law.

(c) The property owner and any other occupant shall provide the City, its agents or contractors with access to the property for testing, developing work orders, plumbing repair, inspections and other necessary or desirable work.

(d) Failure to comply with this Regulation may result in the suspension of water service and/or imposition of other penalties established by law.

(e) Subject to the availability of funds, the owner of a property where an Internal Cross has been identified may be eligible for the Water Department assistance program if that property owner can satisfy the conditions set forth in Sections 200.2(a)(c)(e) and (f), Section 200.3, and Section 200.4 of these Regulations.

## **501.0 WASTEWATER CONTROL**

Whereas, the Philadelphia Home Rule Charter, Section 5-800 et seq. mandates that the Philadelphia Water Department operate the City of Philadelphia ("City") water supply and wastewater system; and

Whereas, the Philadelphia Water Department must ensure sound and safe operation of the City wastewater treatment plants and sewer system ("Wastewater System"); and

Whereas, the Federal Clean Water Act requires that the City prevent the introduction of pollutants into the City Wastewater System which will interfere with the operation of the Wastewater System or contaminate the resulting sludge; and

Whereas, an objective of the Federal Clean Water Act requires that the City prevent the introduction of pollutants into the City Wastewater System which will pass through the Wastewater System, inadequately treated, into receiving waters or atmosphere or otherwise be incompatible with the Wastewater System; and

Whereas, an objective of the Federal Clean Water Act is to improve the opportunity to recycle and reclaim wastewater and sludge from the Wastewater System.

Now therefore, the City of Philadelphia Water Department promulgates these Wastewater Control Regulations ("Regulations").

### **501.1 Purpose and Policy**

The purposes of these Regulations are:

(a) To set forth uniform requirements for direct and indirect contributors to the City

Wastewater System owned and operated by the City of Philadelphia and to enable the City to comply with all applicable state and federal laws required by the Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403) and the National Categorical Pretreatment Standards (40 CFR Chapter I, Subchapter N).

(b) To prevent the introduction of pollutants into the City Wastewater System which will:

(1) interfere with the operation of the Wastewater System;

(2) contaminate the resulting sludge;

(3) cause the Wastewater System to violate its National Pollutant Discharge Elimination System (“NPDES”) discharge permit;

(4) pass through the Wastewater System, inadequately treated, into receiving waters or the atmosphere; or

(5) be otherwise incompatible with the Wastewater System.

(c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the Wastewater System. These Regulations provide for the regulation of direct and indirect contributors to the City Wastewater System through the issuance of permits to certain non-domestic users and Industrial Users and through enforcement of general requirements for other Users: the Regulations authorize monitoring and enforcement activities and require User reporting and compliance schedule submissions.

## 501.2 Definitions

Unless the context specifically indicates otherwise, the following terms and phrases, as used in these Regulations, shall have the following meanings:

(a) Act or “the Act” or Clean Water Act: Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972, the Clean Water Act of 1977 and the Water Quality Act of 1987, and any subsequent amendments thereto.

(b) Approval Authority: The Director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

(c) Authorized Representative of Industrial User:

(1) In the case of a corporation, a president, secretary, treasurer or vice president of the corporation who is in charge of a principal business function;

(2) In the case of a partnership or proprietorship, a general partner or proprietor; and

(3) A duly authorized representative of the individual designated above if:

(A) such representative is responsible for the overall operation of the facilities from which the indirect discharge into the Publicly Owned Treatment Works (“POTW”) originates;

(B) the authorization is in writing; and



(C) the written authorization is submitted to the City.

(d) Best Management Practices or BMPs: Management practices that are implemented to comply with any Pretreatment Standard or Requirement. Such activities include, but are not limited to, schedules of activities, prohibitions of practices, and maintenance procedures.

(e) Biochemical Oxygen Demand or BOD<sub>5</sub>: The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20 degrees Celsius expressed in terms of concentration (milligrams per liter (mg/l)).

(f) Building Sewer: A private sewer conveying wastewater from the premises of a User to the City Wastewater System.

(g) Bypass: The intentional diversion of wastestreams from any portion of an Industrial User's pretreatment facility.

(h) Categorical Standards: National Categorical Pretreatment Standards.

(i) City: The City of Philadelphia, including, but not limited to, the Philadelphia Water Department.

(j) Collector System: All piping leading to a treatment plant, including those pipes connected to a combined sewer overflow that lead directly to a receiving stream.

(k) Commissioner: The Water Commissioner of the City of Philadelphia or his designee.

(l) Commonwealth: The Commonwealth of Pennsylvania.

(m) Composite Sample: A series of samples based on time (time-proportioned) or flow (flow-proportioned), taken over a given period of time and combined in a single reservoir to determine pollutant level(s).

(n) Cooling Water: The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat and which does not contain a level of contaminants detectably higher than that of the source of the water.

(o) Daily Maximum: The maximum allowable discharge of a pollutant during a calendar day or other twenty-four (24) hour period as allowed by the POTW. Where maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged over the course of a day. Where daily maximum limitations are expressed in terms of concentration, the daily discharge is the arithmetic average of all measurements taken that day.

(p) Direct Discharge: The discharge of treated or untreated wastewater directly to the waters of the Commonwealth which may occur through the City's stormwater conduits or combined sewer outfall structures.

(q) Effluent Data: For any user discharging wastewater to the City's sewer system, effluent data shall mean:

(1) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of any pollutant which has been discharged by the source (or of any pollutant resulting from any discharge from the source), or any combination of the foregoing;

(2) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants which, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purpose, a description of the manner or rate of operation of the source); and

(3) A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

(r) Environmental Protection Agency or EPA: The United States Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

(s) Grab Sample: A sample which is taken from a wastestream on a one-time basis, in fifteen (15) minutes or less, and with no regard to the volume of flow of the wastestream.

(t) Holding Tank Waste: Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(u) Indirect Discharge: The discharge or the introduction of pollutants, including Holding Tank Waste, into the POTW.

(v) Industrial User or User: Any person that introduces or has the potential to introduce an Indirect Discharge regulated under the Act, State or local law, to the POTW.

(w) Interference: A discharge which, alone or in conjunction with a discharge or discharges from other sources:

(1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

(3) In addition, Interference shall mean any of the following:

(A) the introduction of pollutants into the POTW which alone or in conjunction with other discharges, inhibits or disrupts the process, operations or maintenance of the POTW, or causes an evacuation of any POTW personnel, whether or not it causes or contributes to a violation of the City's NPDES Permit; or

(B) the introduction of pollutants, either alone or in conjunction with other discharges, which when reaching the Treatment Plant, inhibits, disrupts or limits the Solid Waste Byproducts disposal options

available to the POTW, whether or not it causes or contributes to a violation of Section 405 of the Act, the Solid Waste Disposal Act or any other law or regulation regulating Solid Waste Byproducts; or

(C) the introduction of pollutants into the City's Collector System, which alone or in conjunction with other discharges, inhibits, disrupts or adversely affects the operations or maintenance of the Collector System.

(x) Monthly Average: The arithmetic mean of the daily values for effluent samples collected over a calendar month.

(y) National Categorical Pretreatment Standards: Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317) which applies to a specific category of Industrial Users and Pretreatment Standards as published in 40 CFR Chapter I, Sub Chapter N.

(z) National Pollutant Discharge Elimination System or NPDES Permit: A permit issued pursuant to Section 402 of the Act (33 USC 1342).

(aa) National Prohibitive Discharge Standard or Prohibitive Discharge Standard: Any regulation developed under the authority of Section 307(b) of the Act and 40 CFR Part 403.5.

(bb) New Source:

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act which will be

applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

(A) the building, structure, facility or installation is constructed at a site at which no other source is located; or

(B) the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(C) the production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site.

(2) Construction on a site at which an existing source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section 501.2(bb)(1)(B) or Section 501.2(bb)(1)(C), but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined in Section 501.2(bb)(1) and Section 501(bb)(2) has commenced if the owner or operator has either:

(A) begun or caused to begin as part of a continuous onsite construction program:

(i) any placement, assembly, or installation of facilities or equipment; or

(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the

placement, assembly, or installation of new source facilities or equipment.

(B) or entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(cc) Non-Domestic Users: Commercial, industrial or municipal users who discharge to the POTW.

(dd) Pass Through: A discharge which exits the POTW to the receiving stream or its atmosphere in quantities or concentrations which alone or in conjunction with other discharges is a cause of a violation of any requirement of the City's NPDES permit or a violation of any air emission standard set by the Clean Air Act, State or local rules and regulations governing emissions to the air (including an increase in the magnitude or duration of a violation).

(ee) Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(ff) pH: The negative logarithm (base 10) of the concentration of hydrogen ions expressed in moles per liter of solution.

(gg) Pollution: The man-made or man-induced alteration of the chemical, physical,

biological, and/or radiological integrity of water.

(hh) Pollutant: Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, and agricultural waste or any other contaminant discharged into water.

(ii) Pretreatment or Treatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction, elimination or alteration can be obtained by physical, chemical or biological processes, process changes, or other means, except as prohibited by Section 501.3(b)(20)(G).

(jj) Process Wastewater: Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

(kk) Pretreatment Standards or Requirements: Any substantive or procedural requirement related to pretreatment, including, but not limited to, those requirements found in the Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403), the National Categorical Pretreatment Standards, the Resource Conservation and Recovery Act (42 USC 6901 et seq.), the Solid Waste Management Act (35 P.S. 6018.101 et seq.) as they relate to the proper disposal of pretreatment sludges, these Regulations and any order issued under these Regulations, the

Industrial User's Wastewater Discharge Permit and any other federal, state or local law or regulation which regulates discharges to the POTW.

(ll) Publicly Owned Treatment Works or POTW: A treatment works as defined by Section 212 of the Act (33 USC 1292) which is owned by the City including any devices and systems used in the storage, treatment, recycling or reclamation of municipal sewage and industrial waste. This definition includes any sewers that convey wastewater to the POTW Treatment Plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this regulation, "POTW" shall also include any sewers that convey wastewater to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

(mm) POTW Treatment Plant or Treatment Plant: That portion of the POTW designed to provide treatment to wastewater.

(nn) Shall is mandatory; May is permissive.

(oo) Significant Industrial User: The term Significant Industrial User shall mean the following:

(1) any Industrial User subject to any National Categorical Pretreatment Standard; or

(2) any Industrial User that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater) or contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW Treatment Plant; or

(3) any Industrial User that is found by the City, DEP or EPA to have a reasonable potential, either alone or in conjunction with other discharges, to adversely affect the POTW, the Collector System, the Solid Waste Byproducts of the POTW, or air emissions from the POTW.

(pp) Solid Waste Byproducts: Materials related to POTW operations which include, but are not limited to, grit, scum, screenings, incinerator ash, sludge and dredge spoils.

(qq) Spill or Slug Discharge: Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or non-customary batch discharge, or any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards found in Section 501.3, Section 501.4 and Section 501.5 of these Regulations.

(rr) State: The Commonwealth of Pennsylvania.

(ss) Standard Industrial Classification (SIC): A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended.

(tt) Stormwater: Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(uu) Suspended Solids: The total suspended matter that floats on the surface of, or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering, expressed in terms of concentration (milligrams per liter (mg/l)).

(vv) Toxic Pollutant: Any pollutant or combination of pollutants listed as toxic pursuant to Pennsylvania Statutes and Rules, Section 307(a) of the Act or other Federal statutes.

(ww) Wastewater: The liquid and water-borne wastes from dwellings, commercial buildings, industrial facilities, utility structures, institutions and construction sites, together with any groundwater, surface water and stormwater that may be present, whether treated or untreated.

(xx) Waters of the Commonwealth: All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the Commonwealth or any portion thereof.

(yy) Wastewater Discharge Permit or Permit: As set forth in Section 502.1 of these Regulations.

(zz) Abbreviations --The following abbreviations shall have the designated meanings:

(1) BOD<sub>5</sub>: Five-day Biochemical Oxygen Demand

(2) BMP: Best Management Practice.

(3) CERCLA: Comprehensive Environmental Response, Compensation and Liability Act. (42 USC 9601 et seq., as amended)

(4) CFR: Code of Federal Regulations

(5) DEP: Pennsylvania Department of Environmental Protection

(6) EPA: United States Environmental Protection Agency

(7) l: Liter

(8) mg: Milligrams

(9) mg/l: Milligrams per liter

(10) NAICS: North American Industry Classification System

(11) NPDES: National Pollutant Discharge Elimination System

(12) POTW: Publicly Owned Treatment Works

(13) RCRA: Resource Conservation and Recovery Act

(14) SIC: Standard Industrial Classification

(15)SIU: Significant Industrial User

(16) SWDA: Solid Waste Disposal Act, 42 USC 6901 et seq.

(17) TSS: Total Suspended Solids

(18) USC: United States Code

### **501.3 General Discharge Prohibitions**

(a) No User shall contribute or cause to be contributed, directly or indirectly, to the POTW any pollutant or wastewater which will pass through or interfere with the operation or performance of the POTW. These general prohibitions apply to all Users of the POTW whether or not the User is

subject to Federal Categorical Pretreatment Standards or any other Federal, State, or local Pretreatment Standards or Requirements.

(b) No User shall contribute the following substances to any POTW:

(1) any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall the atmosphere in a private sewer leading to a POTW structure exceed 25% Lower Explosive Limit (LEL) unless the User can demonstrate that such a discharge does not create at the point of discharge into the POTW or at any other point in the POTW a reading over 10% LEL as measured by an explosimeter. Prohibited materials include, but are not limited to, any substances which can create a fire or explosion hazard to the POTW;

(2) solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch, manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes or any material which can be disposed of as trash;

(3) any wastewater having a pH less than 5.5 or higher than 12.0 as measured by

a grab sample or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW;

(A) No Industrial User measuring pH continuously at the point of discharge shall discharge wastes having a pH lower than 5.5 or higher than 12.0 at any time except for a period not to exceed a total of five (5) minutes in any one (1) hour period. In the event that a discharge of a pH lower than 5.5, or higher than 12.0 for a period exceeding five (5) minutes occurs, the Industrial User must demonstrate that the pH will not exceed the range of 5.5 to 10.0 at a down stream point designated by the City. In no case may the Industrial User's discharge contain a pH less than 5.0 at the point of discharge into the POTW.

(B) In the event that the influent wastewater flow arriving at a Treatment Plant is outside the pH range of 6.5 to 8.5, the City may limit the Industrial Users to that Treatment Plant to a pH range of 6.0 to 9.0, upon oral or written notice, for as long as the City deems necessary.

(4) any wastewater containing pollutants which may, either singly or by interaction with other pollutants:

(A) injure, adversely affect or interfere with any wastewater treatment process; or

(B) constitute a hazard to humans or other biota, or may create an adverse effect in the receiving waters of the POTW, as determined through biomonitoring conducted on the POTW's effluent or through in-stream monitoring; or

(C) violate any provision of the Federal Clean Air Act (42 USC 7401 et

seq.) as amended, or local air quality regulations;

(%) any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or may result in toxic gases, vapor or fumes or are sufficient to prevent entry into the POTW for maintenance and repair without respiratory protection or other personal safety equipment;

(6) any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludge, or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the City to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act, nor any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management methods being used by City;

(7) any substance which will cause the City to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards;

(8) any wastewater with objectionable color not removed in the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions;

(9) any wastewater having a temperature which will inhibit biological activity in the POTW Treatment Plant resulting in Interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds

60°C (140°F) or which shall cause the wastewater entering the POTW Treatment Plant to exceed 40°C (104°F);

(10) any pollutants, including oxygen demanding pollutants and suspended solids released at a flow rate and/or pollutant concentration which a User knows or has reason to know will cause Interference or Pass Through to the POTW. In no case shall a slug load have a flow rate or contain concentrations or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour permitted concentration, quantities, or flow during normal operation;

(11) any wastewater containing any radioactive wastes or isotopes of such half life or concentrations as may exceed limits established by the City in compliance with applicable State or Federal regulations;

(12) any wastewater which causes a hazard to human life or creates a public nuisance;

(13) any wastewater containing motor oils or lubricants removed from vehicles or other machinery;

(14) any wastewater containing substances which may solidify or become viscous at temperatures between 0° C (32° F) and 65 °C (149°F);

(15) any wastewater containing in excess of 100 mg/l of fats, oils and greases of mineral, petroleum or unknown origin at any time as shown by grab sample;

(A) Wastewaters discharged to the POTW shall contain no floatable or non-mulsified fats, oils and greases of animal or vegetable origin. Specific numerical limits



for these pollutants may be placed in an Industrial User's Wastewater Discharge Permit if found by the City to be necessary. Wastewater shall in no case contain concentrations of these pollutants high enough to cause Interference or Pass Through. The limits for both fats, oils and greases of mineral, petroleum or unknown origin and of animal or vegetable origin may be reduced by the City without amending these Regulations where the existing limits cause adverse impacts to the Collector System and/or POTW.

(16) any sludges from septage or holding tanks without prior written approval of the City;

(17) any wastewater which because of its chemical nature or composition causes the sewer atmosphere to contain airborne chemical concentrations in excess of concentrations established by the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR Part 1910, regardless of duration of exposure experienced by any individual, whether a City or contractor's employee, unless written authorization is granted by the Commissioner;

(18) wastewater which may create a fire or explosive hazard in the POTW, including, but not limited to, wastewater with a closed-cup flashpoint of less than 60°C (140 °F) using the test methods specified in 40 CFR 261.21; or

(19) any wastewater which, alone or in conjunction with any other discharges, causes foam anywhere in the Treatment Plant or its effluent.

(20) In addition, the following activities are prohibited:

(A) No person shall discharge wastewater, pollutants, chemicals or any other substance or contaminant into street inlets or through sewer manholes without the prior written approval of the City.

(B) No person who generates wastewater at one property shall discharge it at another property without prior written approval from the City.

(C) No person shall discharge wastewater in quantities or at rates of flow which may have an adverse or harmful effect on or overload the City's sewer system or Treatment Plants or cause excessive or additional treatment costs or render inaccurate or interfere with the function of sewer metering devices.

(D) No person shall discharge a wastewater flow contributing greater than 2,500 pounds per day of five (5) day biochemical oxygen demand, or contributing greater than 1,750 pounds per day of suspended solids or having a volume in excess of three (3) million gallons per day without prior written approval of the City.

(E) No person shall store or handle any material, including hazardous substances defined by CERCLA, in any area draining to the City Wastewater System, because discharge or leakage from such storage or handling may create an explosion hazard in the sewer system or Treatment Plants or may constitute a hazard to human beings or animals or the receiving stream, or may in some other way have a deleterious effect upon the Treatment Plants. Such storage or handling shall be subject to review by the City, and shall require a spill control plan with reasonable safeguards to prevent discharge or leakage of such materials into the sewers.

(F) Industrial Users processing regulated wastestreams through their pretreatment facilities shall not bypass such pretreatment facilities unless they notify the City in writing and obtain prior written approval from the City.

(G) No person shall increase the use of potable water, groundwater, rainwater, river water or process water or in anyway attempt to dilute an effluent as a partial or complete substitute for adequate treatment to achieve compliance with any Pretreatment Standards or Requirements.

**501.4 General Pretreatment Regulations and National Categorical Pretreatment Standards:**

All users shall comply with all provisions contained in the General Pretreatment Regulations (40 CFR Part 403) as amended, and if applicable, National Categorical Pretreatment Standards (40 CFR Chapter I. Subchapter N) as amended. Any limitations imposed under the General Pretreatment Regulations or the National Categorical Pretreatment Standards which are more stringent than the limitations in these Regulations shall supersede the limitations imposed under these Regulations.

(a) Modification of Federal Categorical Pretreatment Standards: Where the City’s Wastewater System achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the City may apply to the Approval Authority for modification of specific limits in the Federal Pretreatment Standards of an Industrial User or a whole category.

**501.5 Specific Pollutant Limitations**

(a) No person shall discharge the following substances in excess of the concentrations,

in milligrams per liter, (mg/l), as expressed below:

<u>Substance</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>
arsenic	0.15	0.10
cadmium	0.2	0.1
chromium (total)	7.0	4.0
copper	4.5	2.7
cyanide (total)	10.0	
lead	0.69	0.43
mercury	0.01	0.005
nickel	4.1	2.6
selenium	0.2	0.1
silver	0.43	0.24
zinc	4.2	2.6

(b) No person shall discharge any of the substances listed below to the POTW without obtaining prior written approval of the City.

- Acrylonitrile
- Aldrin
- Alpha BHC
- Aluminum
- Benzene
- Benzo (a) pyrene
- Benzotrachloride
- Beryllium
- Bis(2-ethylhexyl)phthalate (DEHP)
- Bromobenzene
- Bromodichloromethane
- Bromoform
- Carbon tetrachloride

Chlordane  
Chlorobenzene  
Chlorodibromomethane  
Chloroethane  
Chloroform  
2-Chlorophenol  
Cumene (Isopropylbenzene)  
DDT/DDE/DDD  
Dibutylphthalate  
Dichlorobromomethane  
bis (2-chloroethyl) ether  
Dieldrin  
Dioxins  
Dimethyl Sulfoxide (DMSO)  
Dimethylnitrosamine  
Ethylbenzene  
Heptachlor  
Hexachlorobutadiene  
Hexachlorobenzene  
Iron  
Lindane  
Dichlorobenzene  
Methyl chloride (Chloromethane)  
Methyl Ethyl Ketone  
Methyl Isobutyl Ketone  
Molybdenum  
Xylenes  
o-Chlorotoluene  
o-Dichlorobenzene  
p-Dichlorobenzene  
p-Chlorotoluene  
Phenanthrene  
Phenols  
Pyrene  
Styrene  
Tetrachloroethylene (Perchloroethylene)  
Titanium  
Toluene  
Toxaphene (chlorinated camphene)  
Trichloroethylene  
Vinyl chloride  
Tetrachloroethane  
1,1,2-Trichloroethane  
Dichloroethane  
1,1-Dichloroethylene  
1,1-Dichloropropene

trans-1,2-Dichloroethylene  
1,2,3-Trichloropropane  
cis-1,2-Dichloroethylene  
1,2-Dibromo-3-Chloropropane  
1,2-Dichloropropane  
1,3-Dichloropropane  
1,3-Dichloropropene  
2,2-Dichloropropane  
2,4-Dinitrophenol  
2,4-Dinitrotoluene  
3,3-Dichlorobenzidene  
Volatile Organic Sulfides

(c) The City reserves the right to modify this list of materials prohibited from entering the POTW.

(d) Polychlorinated Biphenyls (PCBs): The PCB content of waste shall be non-detectable by EPA method 608.

#### **501.6 State Requirements**

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in these Regulations.

#### **501.7 Accidental Discharges**

(a) Spill and Slug Discharge Prevention Plan: Each Significant Industrial User shall provide protection from accidental discharge of prohibited materials or other substances which may interfere with the POTW by developing a Spill and Slug Discharge Prevention Plan. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or User's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility. The Spill

and Slug Discharge Plan shall contain, at a minimum, the following:

- (1) description of discharge practices, including routine and non-routine batch discharges;
- (2) description of stored chemicals;
- (3) procedures for promptly notifying the City of spills or slug discharges, with procedures for follow-up written notification within five (5) working days;
- (4) any necessary procedures to prevent accidental spills and slug discharges, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff and worker training;
- (5) any necessary measures for building containment structures or equipment;
- (6) any necessary measures to assure the integrity of storage;
- (7) any necessary measures for controlling toxic organic pollutants (including solvents);
- (8) any necessary procedures and equipment for emergency response; and
- (9) any necessary follow-up practices to limit the damage suffered by the POTW or the environment.

(b) All existing Users shall complete such a plan within three (3) months of notice to do so by the City. No User who commences a new discharge to the POTW after the effective date of these Regulations shall be permitted to introduce pollutants into the

Wastewater System until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the User's facility as necessary to meet the requirements of these Regulations.

(c) Notification: In the case of an accidental discharge, it is the responsibility of the User to immediately notify the City of the incident by telephone. The notification shall include date, time and location of discharge, type of waste including concentration and volume, duration of discharge, and any corrective actions taken by the User.

(d) Written Notice: Within five (5) business days, unless a different period is prescribed by the City, following an accidental discharge, the User shall submit to the City a detailed written report describing the cause of the discharge and the measures that will be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by these Regulations or other applicable law.

(e) Notice to Employees: A notice shall be permanently posted on the User's bulletin board(s) or other prominent places advising employees whom to call in the event of a dangerous discharge. Employers shall advise all employees who may cause or be injured by such a discharge of the emergency notification procedure.

## 501.8 Fees

(a) Purpose: It is the purpose of this Section to provide for the recovery of costs from the Users of the City's Wastewater System for the implementation of the program established herein.

### (b) Charges and Fees

(1) All Industrial Users applying for or issued a permit after the promulgation of these Regulations shall pay a fee of One Thousand Dollars (\$1,000.00) per permit application.

(2) The City may adopt charges and fees which may include:

(A) fees for reimbursement of costs of setting up and operating the City's Pretreatment Program;

(B) fees for monitoring, inspections and surveillance procedures;

(C) fees for reviewing accidental discharge procedures and construction; and

(D) other fees as the City may deem necessary to carry out the requirements contained herein.

(3) These fees relate solely to the matters covered by these Regulations are separate from all other fees chargeable by the City. The City reserves the right to change the fees set forth herein.

## 501.9 Civil Penalty Assessment Policy

(a) Purpose: The purpose of this section is to enact a civil penalty assessment policy pursuant to the Publicly Owned Treatment Works Penalty Law, Act No.1992-9.

(b) Scope: The POTW Penalty Law allows the City, as the owner and operator of publicly owned treatment works with an approved pretreatment program, to assess civil penalties of up to Twenty-Five Thousand Dollars (\$25,000) per violation of any Pretreatment Standards or Requirements per day. Each term, condition or parameter violated shall constitute a separate and distinct offense. Each day on which a violation occurs or continues to occur shall constitute a separate and distinct offense. In developing this Civil Penalty Assessment Policy, the City considered the following factors:

(1) the damage to air, water, land or other natural resources of this City and Commonwealth and their uses;

(2) cost of restoration and abatement;

(3) savings resulting to the person in consequence of the violation;

(4) history of past violations;

(5) deterrence of future violations;

(6) harm and/or potential harm to the POTW and/or its employees;

(7) whether the violation resulted or could have resulted in the City violating its NPDES Permit; and

(8) whether the violation resulted or could have resulted in the City violating any law or regulation affecting its sludge disposal options.

(c) Mandatory Civil Penalties: Civil Penalties shall be assessed against any Industrial User in significant noncompliance ("SNC") with any Pretreatment Standards or Requirements. The amount of the civil

penalty shall be calculated in accordance with Sections 501.9(f), (g), and (h) of these Regulations. An Industrial User is in significant noncompliance if it meets one or more of the following criteria.

(1) If 33% or more of all samples taken for any single parameter during a six month period demonstrate exceedances of any numeric Pretreatment Standard or Requirement, including the daily maximum effluent limitation, the monthly average limitation, and any instantaneous limits, as defined by any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to Section 501.5.

(2) Monitoring for any parameter less than 100% of the total sampling events required by the Permit.

(3) Discharging without the required Permit under these Regulations.

(4) Violation of any Pretreatment Standard or Requirement that the City determines has caused, either alone or in combination with any other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(5) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or the environment or has resulted in the City's exercise of its emergency authority.

(6) Violation by forty-five (45) days or more of the scheduled date of compliance with milestones for starting construction, completing construction, attaining final

compliance or any other milestone event described in any compliance schedule.

(7) Failure to provide any required reports such as Baseline Monitoring Reports, 90 Day Compliance Reports, Periodic Compliance Reports, Spill or Slug Discharge Reports, Responses to Notices of Violation or Notices of Significant Non Compliance, Compliance Schedule Reports, Pretreatment Facilities Report or any other Report required by law or Permit within thirty (30) days after the report's due date.

(8) Failure to report noncompliance accurately.

(9) Violation of any Best Management Practice requirements or any other violation or group of violations that:

(A) adversely affects the operation or implementation of the local pretreatment program; or

(B) either alone or in conjunction with any other discharge causes harm to the POTW.

(d) Discretionary Civil Penalties: Civil Penalties are discretionary where an Industrial User's violation(s) of the Pretreatment Standards or Requirements do not constitute significant noncompliance as defined in Section 501.9(c) of these Regulations. In exercising its discretion as to whether to assess civil penalties for these violations, the City shall consider the following factors:

(1) Compliance History  
The City shall examine the Industrial User's compliance history for the specific term or condition now being violated as well as the Industrial User's compliance history with all

other Pretreatment Standards or Requirements.

(2) Reasons for noncompliance.

(3) Magnitude of violation.

(4) Good faith compliance efforts.

Good faith compliance efforts consist of the following actions:

(A) whether the Industrial User properly notified the City of the violation;

(B) whether the Industrial User responded to the Notice of Violation within fifteen (15) days as required in the Notice;

(C) the corrective actions the Industrial User has taken or will take to ensure a return to compliance; and

(D) the timeliness of these corrective actions.

(e) Where it is determined that a civil penalty should be levied under this Section, the amount of the civil penalty shall be calculated in accordance with Sections 501.9(f), (g), and (h).

(f) Civil Penalty

The calculation of the civil penalty which shall be assessed shall be in conformity with this Section and Sections 501.9(g) and 501.9(h) of these Regulations.

In this Section, violations of Pretreatment Standards or Requirements are contained in Column I of the Civil Penalty Grid. (See note 1, immediately after the Grid, for further explanation.) Once the specific type of violation has been identified in the Civil Penalty Grid, the appropriate range of civil penalties for the violation is selected from either: Column II, III or IV. (See notes 2, 3 and 4, for further explanation on the selection of civil penalty ranges.) Once the range of fines is selected, the precise civil penalty within that range is determined by considering the factors enumerated in Column V. (See note 5 for further explanation in applying the selection factors.) Finally, there are two exceptions to the general rules in using this Civil Penalty Grid. (See note 6 for further explanation.)

### CIVIL PENALTY GRID

Column I	Column II	Column III	Column IV	Column V
Violations <sup>1</sup>	Non-SNC or First SNC Notification <sup>2</sup>	Second Consecutive SNC Notification <sup>3</sup>	Third Consecutive SNC Notification or Causes or Contributes to Pass Through or Interference <sup>4</sup>	Selection Factors <sup>5</sup>
1. Daily, Hourly or Instantaneous Effluent Limits or Best Management Practices	\$300 – \$5,000	\$5,000 – 15,000	\$15,000 - \$25,000	B, A, C, D
2. Monthly Average Effluent Limits	\$300 - \$9,000	\$3,000 - \$12,000	\$12,000 - \$25,000	B, A, C, D
3. Self-Monitoring (sampling)	\$300 – \$5,000	\$5,000 - \$15,000	\$15,000 - \$25,000	B, D, C.
4. Reporting	\$300 - \$1,000	\$1,000 - \$5,000	\$5,000 – \$25,000	B, D, C
5. Incomplete Reporting	\$300 – \$5,000	Not Applicable (N/A)	N/A	B, E, D
6. Intentional Falsification of Reports or Data or knowingly rendering any monitoring device or method inaccurate	\$25,000	N/A	N/A	N/A
7. Spills or Slug Discharges	\$300 - \$10,000	N/A	\$15,000 - \$25,000	B, A,C, D
8. Unauthorized Discharge	\$300 - \$10,000	N/A	\$10,000 - \$25,000	A, D
9. Compliance Schedule Completion Dates	\$300 - \$5,000	\$5,000 - \$15,000	\$15,000 – \$25,000	F, D
10. Dilution to Meet Effluent Limits	\$300 - \$25,000	N/A	N/A	B, D
11. Inadequate Record Keeping <sup>6</sup>	\$300 - \$5,000	\$5,000 - \$15,000	\$15,000 - \$25,000	B, D, E
12. Failure to Admit Authorized Personnel <sup>6</sup>	\$300 – \$10,000	\$10,000 - \$25,000	N/A	D, B
13. Failure to notify of any Substantial Change in Volume of Pollutants in Discharge (See 40 CFR 403.21(j))	\$300 - \$10,000	N/A	\$10,000 - \$25,000	B, A, C, D
14. Failure to Mitigate Noncompliance	\$300 - \$10,000	N/A	\$10,000 - \$25,000	A, B, C, D
15. Improper Disposal of Pretreatment sludges and spent chemicals	\$300 - \$10,000	N/A	\$10,000 - \$25,000	B, D
16. Unauthorized Bypass	\$300 - \$10,000	N/A	\$10,000 - \$25,000	C, A



Explanatory Notes to Civil Penalty Grid:

Note Number 1

Column I contains a list of sixteen categories of Pretreatment Standard or Requirement violations. These sixteen categories of violation should be all inclusive, covering all possible types of Pretreatment Standards or Requirement violations. If, however, a violation occurs which does not fall within one of the categories, then the civil penalty for that violation shall be assessed in accordance with the method used for assessing civil penalties for violation of daily or hourly effluent limits.

The sixteen categories of Pretreatment Standards or Requirements violations found in Column I are explained in greater detail immediately below:

1. Daily, Hourly or Instantaneous Effluent Limits or Best Management Practices: This category addresses violations of the effluent discharge limits for daily, hourly or instantaneous discharges or best management practices.

2. Monthly Average Effluent Limits: This category addresses violations of the monthly average effluent limits.

3. Self-Monitoring (sampling): Permitted Industrial Users must sample their effluent in accordance with the terms and conditions of their Wastewater Discharge Permits. Violations of these self-monitoring requirements are addressed in this category. Examples of these violations include, but are not limited to, the following:

a) failure to sample for any required parameters;

b) failure to follow proper sampling protocols;

c) failure to sample at the appropriate point; and

d) failure to sample as frequently as required in the Wastewater Discharge Permit.

4. Reporting: The Industrial User is subject to numerous reporting and notification requirements. Failure to provide any of these reports and notifications, or providing these reports and notifications in an untimely fashion, is addressed in this category. These reports and notifications include, but are not limited to, the following:

a) Baseline Monitoring Reports;

b) 90 Day Compliance Reports (40 CFR 403.12(d));

c) Periodic Compliance Reports;

d) Spill Plans;

e) Responses to Notices of Violations or Notices of Significant Non Compliance;

f) Surcharge Reports;

g) Reports required pursuant to any Compliance Schedule, Administrative Order or Consent Decree;

h) Notification of spill or slug discharge; Follow-up written report within five (5) days of spill or slug event;

i) Reporting sampling noncompliance within twenty-four (24) hours of becoming aware of violation; Reporting first sample result showing a return to compliance;

j) Application for Wastewater Discharge Permit or late application;

k) Hazardous Waste Notification pursuant to 40 CFR 403.12(p); and

I) Pretreatment Facilities Reports.

5. Incomplete Reporting:

In this category, reports and notifications are timely submitted but contain errors or omissions.

6. Intentional Falsification of Reports or Data or Knowingly Rendering Any Monitoring Device or Method Inaccurate:

In this category, where the Industrial User has intentionally falsified reports or data, the maximum penalty of \$25,000 per falsification will be assessed. Similarly, where the Industrial User knowingly renders any monitoring device or method inaccurate, this category requires that the maximum penalty be assessed.

7. Spills or Slug Discharges: A spill or slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge.

Violations as the result of spills or slug discharges are addressed in this category.

8. Unauthorized Discharge:

This category includes three types of violations. First, where an Industrial User is required to have a Permit discharges pollutants without a Wastewater Discharge Permit. Second, where an already permitted Industrial User is discharging pollutants from a regulated process which has not been specifically approved by the City and controlled by the User's Wastewater Discharge Permit. (Please note that each pollutant discharged without a permit constitutes a separate and distinct offense.) Third, any discharge violating Section 501.3, Section 501.4 or Section 501.5 of these Regulations.

9. Compliance Schedule Completion Dates: In Administrative Orders and Consent Decrees there will often appear compliance schedules for returning the

Industrial User to compliance. This category addresses violations of the compliance schedule completion dates. (Please note that where the Administrative Orders or Consent Decrees contain stipulated penalties for violation of the compliance schedule dates, the stipulated penalties contained therein shall constitute the exclusive civil penalties available for these violations. Therefore, in these cases, the Civil Penalty Grid will not be used.)

10. Dilution to Meet Effluent Limits: This category addresses the situation where the Industrial User is using dilution to achieve compliance with any effluent limit.

11. Inadequate Record Keeping: This category includes any violations of the Pretreatment Standards or Requirements involving record keeping and storage.

12. Failure to Admit Authorized Personnel: This category involves an Industrial User's refusal to allow a City representative ready access to a facility for purposes of inspection, sampling, records examination and/or copying or for the performance of any other duty.

13. Failure to Notify of Any Substantial Change in the Volume or Character of Pollutants in Discharge: (See 40 CFR 403.12(j)). This category involves any violations resulting from the Industrial User's failure to comply with the advance notification of changed discharge requirements contained in 40 CFR 403.12(j).

14. Failure to Mitigate Non Compliance: An Industrial User has an obligation to mitigate its noncompliance. Violation of this obligation is addressed in this category.

15. Improper Disposal of Pretreatment Sludge and Spent Chemicals: Industrial

Users must dispose of hazardous sludge and spent chemicals in accordance with all applicable laws including, but not limited to, the Clean Water Act and the Resource Conservation and Recovery Act.

16. Unauthorized Bypass:  
Industrial Users processing regulated wastestream through their pretreatment facilities are prohibited from bypassing such pretreatment facilities unless they notify the City in advance of any bypass and obtain the City's prior written approval authorizing such bypass.

Notes 2, 3, and 4

After the category of violation has been identified, there are several ranges of civil penalties which can be assessed for the violation. Notes 2, 3 and 4 define the appropriate range to be selected.

(a) Note 2 - COLUMN II

**NON-SNC or FIRST SNC NOTIFICATION**

If the violation does not rise to the level of Significant Noncompliance (SNC) as defined in Section 501.9(c) of these Regulations, the appropriate fining range is therefore contained in Column II. If the violation does constitute SNC as defined in Section 501.9(c) or this is the first time that the Industrial User has been notified that it is in SNC for that specific standard or requirement, then the appropriate fining range is again contained in Column II.

(b) Note 3 - COLUMN III

**SECOND CONSECUTIVE SNC NOTIFICATION:** This range of civil penalties applies where the Industrial User has received a second Notice of Significant Noncompliance for the same standard or requirement in two (2) consecutive six (6)-month periods.

Where a Notice of SNC is issued for any standard or requirement, and there was no Notice of SNC issued for the standard or requirement in the previous six-month period, the appropriate range reverts to Column II.

If as the result of the issuance of the first SNC Notice, the Industrial User has been issued an Administrative Consent Order or is subject to a Consent Decree, and stipulated penalties are contained therein, then the stipulated penalties shall be the exclusive method for assessing future civil penalties for as long as the stipulated penalty provision remains in effect.

(c) Note 4 - COLUMN IV

**THIRD CONSECUTIVE SNC NOTIFICATION OR CAUSES OR CONTRIBUTES TO PASS THROUGH OR INTERFERENCE:** This range of civil penalties applies in two situations. First, where the Industrial User has received a third consecutive notice of SNC for the same standard or requirement. Second, where the violation has caused or contributed to interference or pass through, as defined in Sections 501.2 (w) and (dd) of these Regulations. Again, where an Administrative Consent Order or Consent Decree provides for stipulated penalties, the stipulated penalties shall be the exclusive method for assessing future civil penalties for as long as the stipulated penalty provision remains in effect.

NOTE 5 -

Once the type of violation has been identified in Column I, and the appropriate range of civil penalties selected from Columns II, III and IV, the precise civil penalty within the appropriate range must be selected. Selection of the precise civil penalty will be based on those Selection Factors appropriate for each type of violation

which are found in Column V. The six selection factors are lettered A through F as follows:

- A. SEVERITY OF VIOLATION
- B. SPECIFIC COMPLIANCE HISTORY
- C. GENERAL COMPLIANCE HISTORY
- D. REASONS FOR VIOLATION
- E. COMPLETENESS
- F. CONSENT DECREE OR ADMINISTRATIVE ORDER

Most violations found in Column I contain numerous selection factors which must be considered in selecting the precise civil penalty. The selection factors appropriate for each violation are listed in their order of importance and weight which should be given each factor. The first factor listed should be given the greatest weight; the second factor the second greatest weight, etc. Although the relative weight given each factor is determined by its order of listing, the absolute weight has not been provided. This is because violations, and the circumstances surrounding and causing them, are too different and complex to be resolved in a mathematical formula. This can only be determined on a case by case basis.

Selection Factors A through F are explained in greater detail immediately below:

**A. Severity of Violation:**  
This factor considers the degree of severity of effluent violations in three different ways. First, the frequency of violation should be considered, Next, the level of exceedance should be considered. Finally, the violations should be considered from total mass perspective.

**B. Specific Compliance History:** This factor considers whether and how often in the past the Industrial User has violated the parameter for which it is now being fined.

**C. General Compliance History:** This factor considers the Industrial User's present and past overall compliance with all Pretreatment Standards or Requirements.

**D. Reasons for Violation:** (self-explanatory)

**E. Completeness:** For the violation categories Incomplete Reporting and Inadequate Record Keeping, the level and/or degree of omissions and errors shall be considered.

**F. Consent Decree or Administrative Order:**  
For the violation category Compliance Schedule Completion Dates, the Industrial User's past and present history of compliance with the Decree or Administrative Order should be examined.

Finally, although addressed separately in Sections 501.9(g) and (h) of these Regulations, for all categories of violations, the economic benefit of noncompliance and any damages, costs and fines must be recovered in selecting the precise civil penalty within the appropriate range.

#### NOTE 6

For most violations, the appropriate range of penalties is selected by the criteria discussed in notes 2, 3 and 4. However, for the categories of Inadequate Record Keeping and Failure to Admit Authorized Personnel, the appropriate ranges are selected differently.

For these categories, the civil penalty range moves from Column II to III if that Industrial User has ever in the past been cited for a violation in that category. The violations do not need to rise to the level of SNC nor do they need to occur in consecutive six (6) month periods.

Similarly, the civil penalty range moves to Column IV for these two categories of violations if the Industrial User has been cited twice or more, at any time in the past, for the same category of violation.

(g) Economic Benefit of Noncompliance

(1) In all cases, the civil penalty assessed shall exceed the economic benefit of noncompliance gained by the Industrial User as a result of not complying with the Pretreatment Standards or Requirements. The economic benefit of noncompliance is that amount of both capital and operating funds saved by the Industrial User by either failing or delaying to install and/or operate the necessary pretreatment to achieve compliance with all Pretreatment Standards or Requirements. The City may use the Guidance Manual for POTWs to Calculate the Economic Benefit of Noncompliance, U.S. Environmental Protection Agency, September 5, 1990, or any subsequent revision, to assist it in calculating the economic benefit of noncompliance.

(2) If a situation arises where the amount assessed under the Civil Penalty Grid in Section 501.9(f) of these Regulations fails to exceed the economic benefit of noncompliance, then the Civil Penalty Grid shall not be used to determine the civil penalty. Rather, the City shall set the civil penalty by first calculating the economic benefit of noncompliance. Next, the amount calculated to be the economic benefit of noncompliance shall be increased by anywhere from 10% to 100%. This increased amount shall constitute the civil penalty. (Simply assessing the economic benefit of noncompliance fails to penalize the Industrial User).

In determining the appropriate increase factor (anywhere from 10% to 100%) the City shall consider the severity of the violations, the reason for the violation

and how quickly the Industrial User abates the violation.

(h) Recovery of Damages, Costs and Fines

(1) In all cases, the civil penalty shall, at a minimum, be set so that it fully compensates the City for any damage or injury to the POTW, its employees, the POTW's sludge or the environment. Any and all costs incurred by the City to correct or compensate for the damage or injury shall also be fully recovered in the civil penalty. Costs shall include, but not be limited to, attorney's fees, court costs, court reporter fees and other expenses associated with enforcement activities, as well as all sampling and monitoring expenses related to discovering, enforcing and maintaining the Industrial User's compliance. Where violation of the Pretreatment Standards or Requirements causes, either alone or in conjunction with a discharge or discharges from other sources, the City to violate any local, state or federal law or regulation, and the City is fined for this violation, the civil penalty assessed shall fully reimburse the City for the fine paid.

(2) If a situation arises where the amount assessed under the Civil Penalty Grid fails to fully compensate the City for all damages, costs and fines, then the Civil Penalty Grid shall not be used to determine the civil penalty. Rather, the City shall set the civil penalty by first calculating all damages, costs and fines to the City resulting from the violation. Next, this amount shall be increased by anywhere from 10% to 100%. This increased amount shall constitute the civil penalty.

(3) In determining the appropriate increase factor (anywhere from 10% to 100%) the City shall consider the extent and nature of the damage, its impact on the POTW, the reasons for the violation and how quickly the Industrial User corrects the damage.

(i) Civil Penalty Appeal

The Industrial User charged with the penalty shall have thirty (30) days to pay the proposed penalty in full, or, if the Industrial User wishes to contest either the amount of the penalty or the fact of the violation, the Industrial User must file an appeal, pursuant to the Philadelphia Home Rule Charter. Failure to appeal within this period shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

**502.0 WASTEWATER DISCHARGE PERMITS**

**502.1 Wastewater Discharge Permits Types**

(a) General Permits: Any Significant Industrial User proposing to connect to or contribute to the POTW shall obtain a Wastewater Discharge Permit before connecting to or contributing to the POTW. All existing Significant Industrial Users connected to or contributing to the POTW shall obtain a Wastewater Discharge Permit within 365 days after the effective date of these Regulations.

(b) No Discharge Permits: Any Significant Industrial User with no wastewater discharge from its regulated process(es) shall obtain a No Discharge Permit, as long as its facility is

connected to or contributes to the POTW and has the potential to discharge wastewater from its regulated process(es).

(c) Trucked or Hauled Wastewater Permit: Any person trucking or hauling wastewater to the POTW must first obtain a septage discharge permit. The following prohibitions apply to all trucked or hauled wastewater:

(1) All wastes are to be discharged only at the designated location contained in the User's septage discharge permit.

(2) All loads are to be sampled and approved prior to discharge.

(3) Only sanitary septic wastes are to be discharged unless prior written approval is given.

(4) Sludges or grease trap wastes shall not be discharged.

(d) Groundwater Discharge Permit: Any non-domestic User discharging pumped-out groundwater to the City's sewer system must first obtain a Groundwater Discharge Permit.

(e) Manhole Pump-out Permit: Any non-domestic User discharging wastewater from underground structures to the City's sewer system must first obtain a manhole pump-out permit.

**502.2 Wastewater Discharge Permit Administration**

(a) Permit Application: Users required to obtain a Wastewater Discharge Permit shall complete and file with the City a Baseline Monitoring Report or other report as may be required by the City.

Existing Users shall apply for a Wastewater Discharge Permit within 30 days after the effective date of these Regulations, unless the City has previously issued such a permit which has not expired. New Users shall apply at least 90 days prior to connecting to or contributing to the POTW. The Baseline Monitoring Report shall contain the information required by Section 502.4(a).

(1) The City will evaluate the data furnished by the User and may require additional information. After evaluation and acceptance of the data furnished, the City may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

(b) Promulgation of Additional National Categorical Pretreatment Standards: When additional and/or new National Categorical Pretreatment Standards are promulgated, any User subject to such additional or new Standards shall apply for a Wastewater Discharge Permit within 180 days of the promulgation of such Standard. In addition, any User with an existing Wastewater Discharge Permit shall submit to the City within 180 days of the promulgation of an applicable National Categorical Pretreatment Standard the information required by Sections 502.4(a)(7) and (8) of these Regulations.

(c) Permit Modifications: The City may modify any existing permit for any of the following reasons:

(1) to incorporate any new or revised federal, state or local Pretreatment Standards or Requirements;

(2) material or substantial alterations or additions to Industrial User's operation which were not covered in the effective permit;

(3) a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(4) information indicating that the permitted discharge could in any manner adversely affect the POTW, personnel or receiving waters;

(5) violation of any terms or conditions of the Permit;

(6) obtaining the Permit by misrepresentation or failure to disclose fully all relevant facts; or

(7) upon request of the Industrial User, provided such request does not create a violation of any existing applicable requirements, standards, laws or rules and regulations.

(d) Permit Conditions: Wastewater Discharge Permits shall be expressly subject to all provisions of these Regulations and all other applicable regulations, User charges and fees established by the City. Permits may contain the following:

(1) concentration and/or mass limits on the average and maximum wastewater constituents and characteristics;

(2) limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;



(3) requirements for installation and maintenance of inspection and sampling facilities;

(4) specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

(5) compliance schedules. The City may, at its discretion, issue interim effluent limits as part of a compliance schedule;

(6) requirements for submission of technical reports or discharge reports (see Section 502.4 of these Regulations);

(7) requirements for maintaining and retaining records relating to wastewater discharge as specified by the City, and affording City access thereto;

(8) requirements for implementation of and compliance with a spill prevention and slug control plan;

(9) requirements for implementation of and compliance with Best Management Practices;

(10) requirements for notification of the City of any facility changes that affect the potential for a slug discharge or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the Wastewater System;

(11) requirements for notification of a spill or slug discharge; and

(12) other conditions as deemed appropriate by the City to ensure compliance with these Regulations.

(e) Public Notice of Permit Issuance

(1) Public notice of every proposed General Wastewater Discharge Permit and No Discharge Wastewater Discharge Permit shall be published by the City in a newspaper of daily circulation within the geographical area of the discharge. The notice shall include at least the following:

(A) name and address of each permittee;

(B) each permittee's activity or operation which results in the discharge described in the Wastewater Discharge Permit;

(C) address and phone number of premises where a copy of the proposed permit may be requested; and

(D) notice of the 30-day comment period required by Section 502.2(e)(2) of these Regulations.

(2) There shall be a thirty (30)-day period following publication of notice during which written comments may be submitted by the permittee or interested persons located within the City's wastewater processing service area. The Commissioner will make his final determination on a proposed permit following the comment period. The period for comment may be extended at the discretion of the Commissioner for up to 30 additional days.

(3) The Commissioner shall issue the permit as soon as is practicable and this shall be a final decision.

(f) Permit Duration

(1) Permits shall be issued for a specified time period, not to exceed five (5) years. The Permit may be issued for a period less than a year or may be stated to expire on a specific date. The User shall apply for Permit re-issuance a minimum of 180 days prior to the expiration of the User's existing Permit. Where the User has made a timely and complete Permit renewal application, the existing Permit shall continue in effect until a new Permit is issued by the City. The User shall be informed of any proposed changes in the Permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the Permit shall include a reasonable time schedule for compliance.

(2) If a User wishes to contest any provisions of the Permit, the User may file an appeal pursuant to the Philadelphia Home Rule Charter. The appeal shall specifically state all terms and/or conditions of the Permit which are being challenged and shall state all reasons why the User believes the terms and/or conditions are inappropriate. The appeal shall be taken within thirty (30) days of the User's receipt of the Permit. Failure to appeal within this time period shall result in a waiver of all legal rights to challenge the terms and/or conditions of the Permit. Where the Permit has been appealed, the appeal shall only stay the contested terms and/or conditions of the Permit and not the entire Permit. The remainder of the Permit remains in full force and effect.

(g) Wastewater Discharge Permit Transfer: Wastewater Discharge Permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance written notice to the City and the City approves the Wastewater Discharge Permit transfer in writing. The notice to the City must include a written certification by the new owner or operator which:

(1) states that the new owner and/or operator has no immediate intent to change the facility's operation or processes;

(2) identifies the specific date on which the transfer is to occur;

(3) acknowledges full responsibility for complying with the existing Wastewater Discharge Permit; and

(4) acknowledges full responsibility for correcting all pre-existing violations, including, but not limited to, implementing corrective action plans and paying fines.

(h) Effective Date

The Permit becomes effective when signed by the Commissioner or as specified in the Permit.

**502.3 Sampling and Analysis Requirements**

(a) Sampling Requirements

(1) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the

regulated process if no pretreatment exists.

(2) Samples and measurements taken for purposes of the monitoring requirements shall be representative of the normal discharges occurring during the reporting period.

(3) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds.

(A) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 502.4(a) and (b), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulphide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the City may authorize a lower minimum.

(B) For the reports required by Section 502.4(c), the City shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with applicable Pretreatment Standards and Requirements.

(4) For any pollutants not identified in Section 502.3(a)(3), 24-hour composite samples must be obtained through flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the City.

(5) Sampling shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and

amendments thereto including but not limited to sample preservation, sampling vessels and equipment.

#### (b) Sample Analysis Requirements

(1) Analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto including but not limited to analytical methods and sample holding time.

### **502.4 Reporting Requirements**

#### (a) Baseline Monitoring Reports

Any User receiving a Baseline Monitoring Report form shall complete the form by providing all information requested therein and shall return the completed form to the POTW within thirty (30) days upon its receipt. In support of the application, the User shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, mailing address, and facility address;

(2) NAICS number according to the North American Industry Classification System, Office of Management and Budget, 1997, as amended;

(3) Wastewater constituents and characteristics including but not limited to those mentioned in Section 501.5(a) of these Regulations as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR Part

136, as amended; User shall follow the requirements of Section 502.3 of these Regulations for Sampling and Analysis Requirements;

(4) Time and duration of contribution;

(5) Average daily, maximum daily and thirty (30) minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

(6) Description of activities, facilities and plant processes on the premises including all materials, which are or could be discharged;

(7) The nature and concentration of any pollutants in the discharge which are limited by any City, State, or Federal Pretreatment Standards, as well as any information demonstrating compliance with any applicable Best Management Practices, and a statement regarding whether or not the Pretreatment Standards or Requirements are being met on a consistent basis, and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the User to meet applicable Pretreatment Standards or Requirements;

(8) Where additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:

(A) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (e.g., completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(B) No increment referred to in paragraph (A) above shall exceed nine (9) months.

(C) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the City indicating, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. Such progress reports shall be submitted to the City at least every nine (9) months.

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

(10) Type and amount of raw materials processed (average and maximum per day);

(11) Number and type of employees, hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(12) Any other information as may be deemed by the City to be necessary to evaluate the permit application;

(13) a list of any environmental control permits held by or for the facility; and

(14) a certification statement, signed and dated by an Authorized Representative of the Industrial User, as required by 40 CFR 403.6(a)(2)(ii) and Section 502.4(k) of these Regulations.

(b) Report on Compliance with National Categorical Pretreatment Standards Deadline (90 Day Compliance Report).

(1) Within ninety (90) days following the date for final compliance with applicable National Categorical Pretreatment Standards or in the case of a New Source, following commencement of the introduction of wastewater into the POTW, any Industrial User subject to Pretreatment Standards or Requirements shall submit to the City a report containing the information described in Section 502.4(a)(3) through (7).

(2) For Industrial Users subject to equivalent mass or concentration limits established by the City in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long term production rate. For all other Industrial Users subject to National Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.

(c) Periodic Compliance Reports

(1) The reporting periods shall run from January 1 to June 30 and from July 1 to December 31. Every SIU shall submit to the City during the months of July and January, unless required in different months or more frequently by the City, a Periodic Compliance Report for the preceding reporting period. The Periodic Compliance Report shall contain, at minimum, the following:

(A) The results of the monitoring program conducted by Industrial User, including all sample results, sampling frequency and sample type (grab or composite), and any information demonstrating compliance with any applicable best management practices.

(i) All analyses shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR Part 136, as amended; or other test procedures approved by the EPA for use under the Clean Water Act. User shall follow sampling and analysis requirements in Section 502.3 of these Regulations.

(B) Wastewater flow data for the reporting period, specifically daily averages and maximums in gallons per day.

(C) For Industrial Users subject to equivalent mass or concentration limits established by the City in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long term production rate. For all other

Industrial Users subject to National Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.

(D) A statement as to whether or not Industrial User has achieved compliance with all Pretreatment Standards or Requirements, including Best Management Practices.

(E) If the Industrial User has not achieved compliance with all Pretreatment Standards or Requirements and Best Management Practices, a proposed schedule indicating what additional pretreatment and/or operations and maintenance will be required to achieve compliance in the shortest time.

(F) a certification statement, signed and dated by an Authorized Representative of the Industrial User, as required by 40 CFR 403.6(a)(2)(ii) and Section 502.4(k) of these Regulations.

(d) Notification of Changed Discharge

All Industrial Users shall promptly notify the City in advance of any facility changes that affect the potential for a slug discharge or any other substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the Industrial User has submitted initial notification under Section 502.4(e) of these Regulations.

(e) Hazardous Waste Notification Requirement

(1) The Industrial User shall notify the City, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge to the City of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261 (RCRA). Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than one-hundred (100) kilograms of such waste per calendar month to the City, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. The notification requirement in this Section does not apply to pollutants already reported under the self-monitoring requirements.

(2) The Industrial User is exempt from the requirements of paragraph (1) of this section during a calendar month in which it discharges no more than fifteen (15) kilograms of hazardous wastes, if allowed under its Permit, unless the wastes are RCRA acute hazardous wastes, which require a one-time notification. Subsequent months during which the Industrial User discharges more than such quantities of

any hazardous waste, where allowed by its Permit, do not require additional notification.

(3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the City, the EPA Regional Waste Management Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

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

(f) Closure Statement

If Industrial User requests modification or termination of Industrial User's Wastewater Discharge Permit due to ceasing all or part of the process(es) regulated by the Permit, Industrial User shall submit to the City, in writing, thirty (30) days prior to closing, a Closure Statement which shall contain, at a minimum, the following:

(1) company name and address (at which regulated process(es) are or were located);

(2) name and telephone number of company contact person;

(3) closure date(s) of regulated process(es);

(4) list of other process(es) that will continue to operate at same location;

(5) indication of whether a water shut-off request has been filed if entire facility has or will shut down;

(6) ultimate plans for disposal of building(s), equipment and materials;

(7) schedule for (6) above;

(8) receipts and manifests for disposal of hazardous wastes and materials, etc.; and

(9) a certification statement, signed and dated by an Authorized Representative of the Industrial User, as required by 40 CFR 403.6(a)(2)(ii) and Section 502.4(k) of these Regulations.

(g) Notice of Potential Problems

Industrial User shall notify the City immediately of all discharges which could cause problems to the POTW, including spills or slug discharges.

(h) Notice of Indication of Violation

If sampling performed by Industrial User indicates a violation, User shall notify the City within twenty-four (24) hours of becoming aware of the violation, and submit to the City within five (5) business days, unless otherwise specified, a detailed written report describing the discharge and the measures taken to prevent similar future occurrences. User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty (30) days of becoming aware of the violation.

(j) Responses to Notices of Violations and Notices of Significant Non Compliance

All Users shall respond in writing to Notices of Violations and Notices of Significant Non-Compliance (“Notice”) within fifteen (15) days of their receipt of these Notices or as otherwise required in the Notices. The written response must state the reasons for the violation(s), all actions that have or will be taken to return to compliance, and when full compliance will be achieved.

(k) Certification Requirement

All reports, including, but not limited to, Baseline Monitoring Reports, reports on compliance with categorical pretreatment standards and periodic compliance reports shall include the following certification statement, signed and dated by an authorized representative of the Industrial User: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(l) Signatory Requirements

All reports, including but not limited to, baseline monitoring reports and periodic compliance reports shall be signed by an Authorized Representative of the User.

**502.5 Monitoring Facilities**

(a) The City shall require monitoring facilities, to be provided and operated at the User's own expense, that allow for inspection, sampling, and flow measurement of the Building Sewer and/or internal drainage systems. The monitoring facility should normally be situated on the User's premises, but the City may, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the User.

(c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the City.



## **502.6 Inspection and Sampling**

(a) The City may inspect User's facilities to determine compliance with Pretreatment Standards or Requirements. Persons or occupants of premises connected to the City Wastewater System shall allow the City or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, copying of records or for the performance of any of their duties.

(b) The City shall have the right to set up on the User's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations.

(c) Where a User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City shall be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

## **502.7 Pretreatment**

Users shall provide necessary wastewater treatment as required to comply with these Regulations and shall achieve compliance with all Pretreatment Standards or Requirements. Any facilities required to pre-treat wastewater to a level acceptable to the City shall be provided, operated and maintained at the User's expense. A Pretreatment Facilities Report containing detailed plans showing the pretreatment facilities and detailed operating

procedures shall be submitted to the City for review, and shall be acceptable to the City before construction or operation of the facility. Any User currently operating that has not submitted a Pretreatment Facilities Report shall submit this report to the City within fifteen (15) days of the City's request for this Report. The review of such plans and operating procedures will in no way relieve the User from its responsibility of providing an effluent limit which complies with all Pretreatment Standards or Requirements. User shall report in writing to the City any changes in its pretreatment facilities, method of operation or nature or characteristics of the wastewater prior to implementing such changes.

## **502.8 Record Keeping Requirements**

(a) All Users shall retain all records relating to compliance with Pretreatment Standards or Requirements including documentation associated with Best Management Practices for a period of at least three (3) years, and shall contain all of the following requirements:

(1) the date, exact place, method, and time of sampling and the names of the person or persons taking the samples;

(2) the dates analyses were performed;

(3) who performed the analyses;

(4) the analytical techniques/methods used; and

(5) the results of such analyses.

(b) The period of retention shall be automatically extended during the course

of any unresolved dispute between the User and the City, or when the City so requests. Upon request, these records shall immediately be made available to the City for inspection and copying.

### **502.9 Duty to Mitigate**

Industrial User shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with any Pretreatment Standards or Requirements, including such accelerated or additional monitoring as is necessary to determine the nature and impact of the non-complying discharge.

### **502.10 Confidential Information**

(a) Information and data on a User obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.

(b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request by governmental agencies for uses related to these Regulations, the City's NPDES Permit, State Disposal System permit and/or the Pretreatment Program, and for use by State and Federal government or any state or

federal agency in judicial review or enforcement proceedings involving the person furnishing the report. Effluent data, as defined in Section 501.2(q), will not be recognized as confidential information.

### **502.11 Public Notification**

The City shall publish, at least semi-annually in the daily newspaper with the largest circulation a list of the Users which were in Significant Noncompliance, as defined in Section 501.9(c) of these Regulations, during the previous six (6) months. The notification may also summarize any enforcement actions taken against the User(s) during the same six (6) months.

### **502.12 Enforcement**

(a) Emergency Suspensions

(1) Notwithstanding any other provisions of these Regulations, the City may suspend the wastewater treatment service and/or a Wastewater Discharge Permit when such suspension is necessary in the opinion of the City, in order to stop an actual or threatened discharge which:

(A) presents or may present an imminent or substantial endangerment to the health or welfare of persons; or

(B) presents or may present an imminent or substantial endangerment to the environment; or

(C) may cause or actually causes Interference to the POTW; or

(D) may cause or actually causes the City to violate any condition of its NPDES Permit.

(2) Any person notified of a suspension of wastewater treatment service and/or the Wastewater Discharge Permit shall immediately stop or eliminate all contributions.

(3) Should the person fail to immediately comply voluntarily with the suspension order, the City shall take such steps as deemed necessary, including but not limited to termination of water service, and/or immediate severance of the sewer connection.

(4) City shall revoke its emergency suspension order and restore wastewater and/or water service once the following information has been provided to and accepted by the City:

(A) a detailed written report describing the cause(s) of the harmful contribution and indicating what measures have been taken to prevent any future occurrence of same, and

(B) proof of the elimination of the harmful discharge.

(5) Revocation of an emergency suspension order and restoration of wastewater and/or water service shall not preclude the City from taking any other enforcement action as permitted under Sections 502.12(b)-(j), inclusive, and Section 501.9 of these Regulations.

(b) Revocation of Permit: Any User who violates these Regulations, the Wastewater Discharge Permit, or any applicable Federal, State or local law, is subject to having his Wastewater

Discharge Permit revoked in accordance with the procedures of Section 502.12(c) of these Regulations. Revocation of a User's Permit requires the User to immediately cease all wastewater discharges.

(c) Procedure for Revocation of Permit

(1) Whenever the City finds that any User has violated or is violating any Pretreatment Standards or Requirements, the City may serve personally or by regular or certified mail upon such person a notice of revocation stating the nature of the violation(s). Notice by regular mail alone shall be deemed sufficient notice.

(2) Within fifteen (15) days of the date of the notice of revocation, the User shall respond in writing. The response must state why the violation occurred, the steps taken to prevent its recurrence, and whether the violation has been corrected. If the response indicates that the violation has not been corrected, the response shall contain a plan for the immediate correction of the violation.

(3) The Commissioner shall consider the User's response, if any, before rendering his final determination order. The Commissioner's final determination order may direct that:

(A) the User's Permit be immediately revoked; or

(B) the User's Permit be revoked on a specified future date unless adequate treatment facilities, devices or other related appurtenances shall have been installed and existing treatment facilities, devices or other related appurtenances are properly operated; or

(C) the User's Permit shall continue in effect.

(4) Further orders and directives as are necessary and appropriate may be issued.

(d) Enforcement of Permit Revocation: If the User fails to immediately cease all wastewater discharges upon the revocation of his Wastewater Discharge Permit, the Commissioner may order any of the following actions to be taken:

(1) immediate termination of the User's water service;

(2) immediate severance of the User's sewer connection; and

(3) any other action designed to immediately terminate the User's wastewater discharge.

(4) All costs related to terminating or reinstating after termination the User's water and/or sewer service shall be borne by the User.

(e) Reissuance of Permit after Revocation

(1) Where a User has failed to respond to a notice of revocation in accordance with Section 501.9(c) of these Regulations and/or has failed to comply with the Commissioner's final determination order, the City may decline to reissue a permit.

(2) No permit shall be reissued until the User has submitted and completed a corrective action plan, which will ensure compliance with all Pretreatment Standards or Requirements.

(3) Prior to reissuance of a Permit the City may require the User to:

(A) file with the City a performance bond payable to the City, in a sum not to exceed a value determined by the City to be necessary to achieve consistent compliance; or

(B) submit proof that it has obtained liability insurance acceptable to the City, sufficient to restore or repair the POTW for damages that may be caused by the User's discharge.

(f) Procedure for Terminating Discharge against Non-Permitted Users

(1) Whenever the City finds that any User has violated or is violating any Pretreatment Standards or Requirements, the City may serve personally or by regular or certified mail upon such User a notice of the City's intent to terminate the User's discharge, along with a description of the User's violation(s). Notice by regular mail shall be deemed sufficient notice.

(2) Within fifteen (15) days from the date of the notice of the City's intent to terminate, the User shall respond in writing. The User's response shall include a plan for the satisfactory correction of the violation(s).

(3) The Commissioner shall consider the User's response, if any, before rendering his final determination order. The Commissioner's final determination order may direct that:

(A) the User immediately cease all wastewater contributions; or

(B) the User be prohibited from contributing wastewater into the POTW unless adequate treatment facilities are installed and operating; or

(C) the User may continue his wastewater contribution.

(4) Further orders and directives as are necessary and appropriate may be issued.

(5) If a User fails to immediately comply with the Commissioner's final determination order, the Commissioner may enforce his order by taking any or all of the actions stated in Section 502.12(d) of these Regulations. In addition, the Commissioner may use any other administrative, legal, or equitable relief available.

(6) After termination, the User may apply to the Commissioner to once again contribute wastewater into the City's system. The Commissioner may accept, deny, or condition his acceptance of the application pursuant to Section 502.12(e) of these Regulations.

(g) Administrative Orders

(1) Whenever a User has violated or continues to violate any Pretreatment Standards or Requirements, the Commissioner may issue an Administrative Order requiring the User to correct the violations and to return to compliance. The Order may require that the User take any or all of the following actions:

(A) install new or additional pretreatment facilities to ensure compliance with all Pretreatment Standards or Requirements;

(B) make operational changes to ensure compliance with all Pretreatment Standards or Requirements;

(C) meet interim and/or final deadlines by which actions and/or compliance must be achieved;

(D) conduct additional self-monitoring and additional reporting;

(E) require remediation of any damage done to the POTW or the environment;

(F) establish interim effluent limits;

(G) require the User's Wastewater Discharge Permit to be amended in accordance with these Regulations;

(H) require the User to submit information and reports;

(I) pay fines in accordance with Section 501.9 of these Regulations; or

(J) take any other action, which the Commissioner deems necessary to ensure both present and future compliance with all Pretreatment Standards or Requirements.

(2) If the User fails to comply with the Administrative Order, the User's wastewater and/or water service may be terminated. The issuance of an Administrative Order shall not be a bar against, or a prerequisite for, taking any other action against the User. If the User wishes to contest the Administrative Order, he shall file its appeal pursuant to

the Philadelphia Home Rule Charter within 30 days. Failure to appeal within this time period shall result in a waiver of all legal rights to contest the violation or any provisions contained in the Order.

(h) Administrative Consent Orders

The Commissioner may enter into Administrative Consent Orders establishing an agreement with any User. An Administrative Consent Order may contain any or all of the provisions contained in Section 502.12(g) of these Regulations. Administrative Consent Orders shall have the same force and effect as Administrative Orders.

(i) Legal Action

If any person violates any Pretreatment Standards or Requirements, the City Solicitor may commence an action for appropriate legal and/or equitable relief in the appropriate court.

(j) Injunctive Relief

If an Industrial User violates any Pretreatment Standards or Requirements, the City may petition the Court for an injunctive relief, which restrains or compels the activities on the part of the Industrial User.

**503.0 MISCELLANEOUS**

**503.1 City's Right of Revision**

The City reserves the right to establish by regulation more stringent limitations or requirements on discharges to the City's Wastewater System if deemed necessary to comply with the objectives presented in Section 501.1 of these Regulations.

**503.2 Severability**

If any provision, paragraph, word, section, or article of these Regulations is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and articles shall not be affected and shall continue in full force and effect.

**503.3 Conflict**

All other regulations and parts of other regulations inconsistent or conflicting with any part of these Regulations are hereby repealed to the extent of such inconsistency or conflict.

**503.4 Effect of Regulations**

These Regulations shall apply to the City and to persons outside the City who are, by contract or agreement with the City, users of the POTW.

**504.0 REQUIREMENTS FOR SEWER CONNECTIONS**

**504.1 Definitions.**

The following words and phrases when used in Section 504.1 through 504.14 of these regulations have the meanings given to them in this Section unless specifically provided otherwise or unless the text clearly indicates otherwise:

(a) Drainage system: The piping within public or private premises but outside of a building or dwelling which conveys sewage, rainwater or other liquid wastes from a property to a point of disposal.

(b) Fresh Air Inlet: A connection to the Drainage System to permit the circulation of air through the system.

(c) House Drain: That part of the lowest horizontal piping of the Drainage System which receives the discharge from soil, waste, or other drainage pipes in the building or on the premises and conveys it to the existing lateral, sewer, cesspool or septic tank.

(d) House Trap: A running trap installed in the House Drain to prevent circulation of gases between the Drainage System of a premises and the Public Sewer; also known as a curb trap when installed on the footway.

(e) Lateral: The portion of the Drainage System that extends from the Public Sewer to the House Trap.

(f) Licenses and Inspections: The Department of Licenses and Inspections, an operating department of the City of Philadelphia.

(g) Manual: The current version of the Philadelphia Water Department Sewer Connection and Lateral Repair Manual.

(h) Master Plumber: A person who has obtained an active Master Plumber license from the City of Philadelphia, and who is regulated under Philadelphia Code § 9-1003.

(i) Plumber: A Master Plumber, journeyman plumber or apprentice plumber registered and/or licensed to install plumbing in the City of Philadelphia, and who is regulated under Philadelphia Code § 9-1003.

(j) Private Sewer: A sewer which is not part of the City's Public Sewer system, and which is owned and maintained by the connected property owner(s).

(k) Public Sewer: A sewer main and associated Sewer Appurtenances owned by the City of Philadelphia and maintained by the Water Department.

(l) Sewer Appurtenances: The various accessories on the public sewerage system necessary for the efficient operation of the system. Sewer Appurtenances include manholes, lampholes, street inlets, catch basins and inverted siphons.

(m) Sewer Access Permit: A permit authorizing access to a specific area of the Public Sewer to investigate a Private Sewer, Public Sewer, or Lateral.

(n) Sewer Connection: The point of connection between the Drainage System of a building or premises and the Public Sewer, or the point of connection between a Private Sewer and a Public Sewer.

(o) Sewer Connection Permit: a permit authorizing a Sewer Connection and/or Lateral Repair, which shall distinguish between the installation of a new Sewer Connection and/or Lateral and the repair or reconnection of an existing Sewer Connection and/or Lateral.

(p) Slant: The prefabricated fitting connecting the Lateral to the Public Sewer.

(q) Streets Department: The Philadelphia Department of Streets, an operating department of the City of Philadelphia.

(r) Water Department: The Philadelphia Water Department, an operating department of the City of Philadelphia.

### **504.2 Owner's Responsibility.**

(a) The property owner owns and shall maintain and repair the property's entire Drainage System and the Sewer Connection, ensuring each is intact, unobstructed, and properly configured, connected, and functioning at all times.

(b) The owner(s) of a Private Sewer shall maintain and repair the Private Sewer, ensuring it is intact, unobstructed, and properly configured, connected and functioning at all times.

(c) The sanitary, stormwater, or combined sanitary and stormwater Lateral for each building or structure shall be separate and independent of the Drainage System serving any other building, structure, or surface area unless part of a common building sewer or Drainage System or Private Sewer permitted under the Philadelphia Plumbing Code and approved by the Water Department and Licenses and Inspections.

#### Exceptions:

(1) Multiple buildings, structures, or surface areas which have a shared stormwater management practice ("SMP") may use a single Lateral to connect the SMP to a Public Sewer in accordance with PWD Regulations Chapter 6.

(2) Several SMPs may use a single Lateral to connect the SMPs to a Public Sewer.

### **504.3 Permit Required.**

(a) Permit required.

(1) No person shall make a new Drainage System connection to an existing Public Sewer unless:

(A) the Water Department has determined that the Public Sewer has available capacity for the proposed connection in accordance with the Pennsylvania Sewage Facilities Act ("Act 537"), if applicable, and

B) he or she has obtained a Sewer Connection Permit.

(2) No person shall reconnect, replace, or repair an existing Sewer Connection or a Lateral until he or she has obtained a Sewer Connection Permit.

(b) An application for a Sewer Connection Permit shall be submitted by a Master Plumber or his/her authorized agent.

(c) A Master Plumber or his/her authorized agent must follow the process detailed in the Manual in order to obtain a Sewer Connection Permit.

(d) Any Plumber or other person who starts work governed by this Section without securing the proper permits as required by the Philadelphia Code and these regulations shall be subject to having his/her license suspended or revoked, and/or such penalties as may be prescribed by law, and may be ordered to stop work immediately, except in an emergency as provided by law.

### **504.4 Plumber's Responsibility.**

(a) A Plumber is required to be on site at all times following commencement of any work governed by this Section. The Plumber shall have his/her license or



registration, personal identification, and all permits available for inspection at the work site at all times. If not on site, a journeyman or Master Plumber shall be available for a site visit or electronic communication during a City inspection.

(b) The responsibility to provide an adequate Sewer Connection remains with the Master Plumber. Any approval by the City of Philadelphia or Water Department does not remove any responsibility from the Master Plumber.

(c) The Plumber must protect stockpiles of excavated material and must broom sweep the sidewalk and roadway adjacent to the work site at the end of each work day. Excavated material is prohibited from entering the Public Sewer.

(d) The Plumber shall comply with the Pennsylvania Underground Utility Line Protection Act (73 P.S. § 176 et. seq., informally known as PA One Call), or equivalent.

(e) It is the responsibility of the Plumber on site to dig with care and verify all utility location information. If a Plumber causes or discovers any damage to public or private infrastructure or property during any work covered by this Section, the Plumber shall notify the Water Department immediately. The Water Department, upon being notified of such damage caused by the Plumber, may order the Plumber to make any emergency repairs to public or private infrastructure at the Plumber's expense.

(f) If the Water Department determines that the Public Sewer or any other City infrastructure or property was damaged by a Plumber's operation, then the time

and materials required by the City to repair such damage and other clean-up costs will be invoiced to the Master Plumber. The Water Department may withhold permits from a Master Plumber who fails to pay such an invoice, or who fails to resolve a legitimately disputed invoice.

#### **504.5 Water Department Responsibility.**

(a) The Water Department or its designee will inspect work conducted under this Section and will only approve work performed in accordance with the Manual.

(b) The Water Department may refer any violations of City Code and/or regulations under the jurisdiction of another City department to that agency.

(c) The Water Department maintains current Public Sewer records which shall be available for plumbers, engineers or other construction professionals to use when designing or constructing connections to the Public Sewer.

(d) The Water Department will periodically review and update the Philadelphia Water Department Sewer Connection Manual.

#### **504.6 General Requirements for Sewer Connections.**

(a) All Sewer Connections must be core drilled, unless approved by the Water Department in writing.

(b) Strictly prohibited connections and configurations.

(1) The following types of connections are strictly prohibited.

Any private plumbing connected to:

- (A) Force mains.
- (B) Inlets.
- (C) Inlet laterals.
- (D) A sewer with insufficient capacity.

(2) The following configurations are strictly prohibited:

- (A) A stormwater Lateral or combined stormwater and sanitary Lateral connection to a sanitary-only Public Sewer.
- (B) A sanitary Lateral or combined stormwater and sanitary Lateral connection to a stormwater-only Public Sewer.
- (C) A Sewer Connection from an ejector or pumped system.
- (D) A Lateral intruding into the Public Sewer.

(c) Generally prohibited Sewer Connections.

(1) The following types of Sewer Connections are generally prohibited but may be reviewed and approved by the Water Department on an individual basis by the applicant showing an extreme hardship.

Sewer Connections to:

- (A) Intercepting sewers.
- (B) Manholes.
- (C) Dry weather outlet pipes.
- (d) Review and Approval.

(1) The following types of Drainage System connections shall be reviewed and may be approved on a case by case basis by the Water Department.

Drainage System connections:

- (A) To a Public Sewer or a Private Sewer draining to a sanitary pump station.
- (B) To a previously lined Public Sewer.
- (C) Larger than six inches in diameter.
- (e) Lateral pipe shall be properly constructed, installed, and maintained and shall be in accordance with the Manual.
- (f) Any Sewer Connection shall be properly and securely made in accordance with the Manual.
- (g) House Traps and Fresh Air Inlets shall be installed in accordance with the Philadelphia Plumbing Code.

#### **504.7 Specific Requirements for Sanitary Sewer and Combined Sewer Laterals.**

- (a) A Lateral connecting to a sanitary-only Public Sewer shall not be smaller in diameter than the House Drain, and in no

case less than five inches (5") in diameter.

(b) A combined sanitary and stormwater Lateral shall be no smaller than six inches (6") in diameter.

(c) When connecting to a combined sanitary and stormwater Public Sewer, separate sanitary and stormwater Laterals within a Drainage System may only be combined after the approved House Traps.

(d) When connecting a Lateral to a sanitary-only Public Sewer and a Lateral to a stormwater-only Public Sewer, the Sewer Connection of the sanitary Lateral shall be downstream of the Sewer Connection of the stormwater-only Lateral, in relation to the flow of the Public Sewer.

#### **504.8 Specific Requirements for Stormwater Sewer Laterals.**

(a) Lateral pipe, including any pipe providing slow release or overflow drainage from a stormwater management practice, and connecting to any type of sewer shall, if applicable, be designed in accordance with Chapter 6 of these regulations.

(b) A stormwater Lateral shall be no smaller than six inches (6") in diameter.

#### **504.9 Materials.**

(a) Lateral pipe shall be constructed of ductile or cast iron, pre-cast reinforced concrete (RCP), or vitrified clay, conforming to the following standards:

(1) Cast iron pipe: ASTM A74; ASTM A 888; CISPI 301

(2) Ductile iron pipe:  
ANSI/AWWA C150 /A 21.50-81, Class 56 wall pipe

(A) Reinforced concrete pipe:  
ASTM C14; ASTM C76; CAN/CSA A257.1M; CAN/CSA A257.2M

(B) Vitrified clay pipe:  
ASTM C 4; ASTM C 700

(b) All Lateral pipe sections shall be joined with bell and spigot joints, made tight with oakum, cement, rubber O-ring or other joint compounds or materials approved by the Water Department. No-hub pipe connections are prohibited, except when making a resilient saddle connection.

(c) Plastic pipe, including ABS and PVC, shall not be used for Lateral construction in the cartway.

(d) Material(s) for Laterals differing from those required or prohibited by this Section shall not be used unless approved by the Water Department in writing in accordance with the Manual. The Master Plumber shall be responsible for establishing the suitability of the alternative material to the Water Department prior to approval and use.

#### **504.10 Lateral Repairs and Replacements.**

(a) Lateral repairs and replacements shall be made in accordance with the Manual.

(b) Where an existing Lateral is being replaced in the same location, the existing Slant may be re-used if the Water Department approves the re-use in

writing after inspection of the existing Slant.

(c) When a Sewer Connection for a property's Drainage System is moved to a new location, that previously existing Sewer Connection shall be properly sealed and the previously existing Lateral for that connection shall be properly disconnected and removed or sealed in accordance with the Manual.

#### **504.11 Work in the Street.**

(a) Street excavations, closures or detours, trenching, compaction, pipe support, backfilling and pavement restoration shall conform with the regulations of the Streets Department.

(b) Written approval must be obtained from the Water Department and the Streets Department Chief Engineer of the Highway Division prior to boring or tunneling in the public right-of-way.

#### **504.12 Access to City Sewer System.**

(a) Any person wishing to access the Public Sewer to conduct an investigation of a Public Sewer, Private Sewer, or Lateral shall obtain a Sewer Access Permit from the Water Department.

(b) No person, instrument, equipment, construction material or anything else may be placed into the Public Sewer for any purpose without the prior written consent of the Water Department.

#### **504.13 Inspections and Enforcement.**

(a) No backfilling shall commence until the Sewer Connection and/or any Drainage System component has been properly installed, and inspected and

approved by the City.

(b) The Fresh Air Inlet(s) shall be visible and accessible for inspection at all times.

(c) The City is authorized to revoke a Sewer Connection Permit when:

(1) the Sewer Connection Permit was issued in error or was issued on the basis of incorrect, inaccurate or incomplete information in the application.

(2) the Sewer Connection Permit was issued on the basis of false statement or misrepresentation of fact in the application.

(3) any plumbing work for which the permit was granted is done in violation of Philadelphia Code or any regulations promulgated pursuant thereto, or fails to pass any inspection or test conducted by City.

(4) work is being conducted in an unsafe manner.

(5) a Stop Work Order or Cease Operations Order has been issued.

(d) Failure to comply with the requirements of this Section or to maintain in good working order any portion of the property's Drainage System shall evidence an immediate hazard to health or public or private property and shall result in the issuance of a Notice of Violation in accordance with the procedures of the Philadelphia Administrative Code and/or may result in the assessment of such other penalties as may be provided by law. In addition, as a result of a continuing violation and as stated in the Notice of Violation, the

City may suspend water service at any time to prevent an immediate hazard to health or public or private property in accordance with the Philadelphia Administrative Code.

(e) If a violation of this Section as described in an issued Notice of Violation is not corrected or if public health, safety, or public or private property is in jeopardy, the City may correct the violation itself or by contract. The property owner(s) shall be responsible for the full cost of repair and shall be billed for such costs by the City. If the property owner(s) fails to pay the bill in the time allowed, the City may take any and all additional enforcement measures permitted by law.

(f) If a Plumber fails to meet his or her obligations under this Section, the City may enforce the penalty provisions of Philadelphia Code § 9-1003(8) (license suspension and revocation). The City may also require the Plumber to correct improper or unsatisfactory work. If, after notice from the City, a Plumber fails to correct unsatisfactory work, the City may correct the violation and invoice the Master Plumber for time and materials. The Water Department may withhold permits from a Master Plumber who fails to pay such an invoice, or who fails to resolve a legitimately disputed invoice.

#### 504.14 Sewer Connection Fees

(a) The fees for a Sewer Connection Permit shall be:

<u>Size and Type</u>	<u>Charge</u>
5" or 6" connection	\$265.00

8" Saddle connection  
\$400.00

8" Wye connection  
\$475.00

and any other PWD approved Sewer Connection requiring a connection method other than core drilling.

(b) Additional Fees:

Approved Generally  
\$100.00

Prohibited Connections

Connections or Repairs  
\$80.00

During Non-Business Hours

(c) The fee for re-inspection of a violation of this Section or for a rescheduled inspection shall be \$65.00.

(d) With the Water Department's approval, depending on the type of connection or repair intended, the fee for an additional Sewer Connection Permit for work to be performed in the same trench and at the same time as work to be performed in association with an initial Sewer Connection Permit may be \$50.

## **CHAPTER 6 STORMWATER**

### **600.1 Definitions**

The following words and phrases, when used in this Chapter 6, have the following meanings and have no bearing on other Chapters or the Philadelphia City Code.

(a) Applicant: Whenever used in this Chapter 6, a property owner, Developer, or other person or entity who has filed an application to the Department for approval to engage in or be exempt from any Regulated Activity at a Development Site in the City of Philadelphia.

(b) Conceptual Stormwater Management Plan: A preliminary stormwater management plan as described in these Regulations and in the Manual.

(c) Demolition: The razing or destruction, whether entirely or in significant part, of a building, structure, site or object; including the removal of a building, structure, site, or object from its site or the removal or destruction of the façade or surface.

(d) Design Storm: The magnitude and temporal distribution of precipitation from a storm event defined by probability of occurrence (e.g., five-year storm) and duration (e.g., 24-hours), used in the design and evaluation of stormwater management systems.

(e) Developer: Any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or land Development project prior to issuance of the Certificate of Occupancy.

(f) Development: Any human-induced

change to a tract of land, whether public or private. As used in these Regulations, Development encompasses, but is not limited to, New Development, Redevelopment, Demolition, and Stormwater Retrofit. It includes the entire Development Site, even when the project is performed in phases.

(g) Development Site: The land area where any Development activities are planned, conducted, or maintained, regardless of individual parcel ownership. It includes contiguous areas of disturbance across Streets and other rights of way, or private streets and alleys, during any stage of or on any portion of a larger common plan of development or sale.

(h) Diffused Drainage Discharge: Drainage discharge not confined to a single point location or channel, such as sheet flow or shallow concentrated flow.

(i) Directly Connected Impervious Area (DCIA): An Impervious Surface that is directly connected to the drainage system as described in the Manual.

(j) Earth Disturbance: Any construction or other activity that disturbs the surface of land including but not limited to, excavations, embankments, land development, subdivision development, and the moving, depositing, or storing of soil, rock or earth.

(k) Erosion and Sediment Control Plan: A site specific plan consisting of both drawings and a narrative that identifies measures to minimize accelerated erosion and sedimentation before, during and after Earth Disturbance.

(l) Groundwater Recharge: The replenishment of existing natural underground water supplies from

precipitation or overland flow without degrading groundwater quality.

(m) Impervious Surface: Any building, pavement, or other material that substantially bars the natural infiltration of surface water into the soil.

(n) Management District: Sub-area delineations that determine peak rate attenuation requirements. A Development Site located in more than one Management District shall conform to the requirements of the district into which the site discharges.

(o) Manual: The most recent version of the Philadelphia Stormwater Management Guidance Manual.

(p) New Development: Development project on a tract of land where structures or impervious surfaces never existed or were removed before January 1, 1970.

(q) Operations & Maintenance Agreement (O & M Agreement): An agreement or declaration which outlines the maintenance requirements associated with the Post-Construction Stormwater Management Plan.

(r) Post-Construction Stormwater Management Plan (PCSMMP): A complete stormwater management plan set as described in these Regulations and in the Manual.

(s) Predevelopment Condition: For New Development and Redevelopment, Predevelopment shall be defined according to the procedures found in the Manual.

(t) Redevelopment: Development on a tract of land that includes, but is not limited to, the demolition or removal of existing structures or impervious surfaces and replacement with new impervious surfaces.

This includes replacement of impervious surfaces that have been removed on or after January 1, 1970.

(u) Record Drawings: Construction drawings revised to represent the as-built conditions.

(v) Stormwater Management Practice (SMP): Any man-made or natural structure, system, landscape feature, channel, or improvement designed, constructed, installed, and/or used to detain, infiltrate, or otherwise control stormwater runoff quality, rate, or quantity.

(w) Stormwater Pretreatment: Techniques employed to remove pollutants before they enter the SMP, including, but not limited to, the techniques listed as pretreatment in the Manual.

(x) Stormwater Retrofit: The voluntary rehabilitation and/or installation of SMPs on a property to better manage stormwater runoff.

(y) Street: A tract of land or part thereof with public access used for vehicular and/or pedestrian traffic, which is maintained by a City Agency, City Related Agency, other Government Agency, or a Non-Profit Organization Created by the City, as determined by the Department.

(z) Street Maintenance Activities: Earth Disturbance activities within an existing Street as determined by the Department and described in the Manual.

## **600.2 Regulated Activities**

(a) A Regulated Activity under these Regulations is Development on a Development Site in the City of Philadelphia that results in an area of Earth Disturbance greater than or equal to 15,000 square feet,

greater than or equal to 5,000 square feet in the Darby and Cobbs Creek Watershed, or as otherwise required by local, state, or federal requirements. The area of Earth Disturbance during the construction phase determines requirements for the erosion and sediment controls and post-construction stormwater management. Further information about Regulated Activities can be found in the Manual.

(b) The applicability of these Regulations is summarized in the Table of Applicable Stormwater Regulations in Philadelphia.

(c) These Regulations shall apply to the entire Development Site even if Development on that site is to take place in phases.

(d) The Department may at its sole discretion allow the use of existing SMPs if the SMPs meet all of the requirements of these Regulations.

### **600.3 Exemptions**

#### **(a) General Exemptions**

The following cases are exempt from the specified requirements of these Regulations.

(1) Redevelopment that results in an area of Earth Disturbance less than one (1) acre is exempt from the requirements of Section 600.5(b), Channel Protection requirement.

(2) Redevelopment located in the Delaware Direct Watershed or the Lower Schuylkill Watershed is exempt from the requirements of Section 600.5(b), Channel Protection.

(3) Redevelopment that results in an area of Earth Disturbance greater than or equal to fifteen thousand (15,000) square feet that can demonstrate a twenty percent

(20%) reduction in Impervious Surface from Predevelopment Conditions, is exempt from the requirements of Section 600.5(b), Channel Protection requirement and 600.5(c), Flood Control requirement.

(4) Development of Streets are exempt from the requirements of Section 600.5(b), Channel Protection requirement, 600.5(c), Flood Control requirement, and 600.5(d), Public Health and Safety Release Rate requirement.

(5) Street Maintenance Activities are exempt from the requirements of Section 600.5(a), Water Quality Requirement, Section 600.5(b), Channel Protection requirement, 600.5(c), Flood Control requirement, and 600.5(d), Public Health and Safety Release Rate requirement

#### **(b) Exemption Responsibilities**

An exemption shall not relieve the Applicant, Developer or property owner from implementing such measures as are necessary to protect public health, safety, property, water quality, and the environment.

#### **(c) Emergency Exemption**

Emergency maintenance work performed for the protection of public health and safety is exempt from the requirements of these Regulations. A written description of the scope and extent of any emergency work performed shall be submitted to the Department within two (2) calendar days of the commencement of the activity. If the Department finds that the work is not an emergency, then the work shall cease immediately and the requirements of these Regulations shall be addressed as applicable.

#### **(d) Special Circumstances**



If conditions exist that prevent the reasonable implementation of water quality and/or quantity control practices on site, upon written request by the property owner, the Department may at its sole discretion accept off-site stormwater management practices, retrofitting, stream restorations, or other practices that provide water quality and/or quantity control equal or greater than onsite practices for the volume which the Applicant has demonstrated to be infeasible to manage and treat on site.

(e) Fee in Lieu

(1) The Department may grant a request for a fee in lieu of on-site or off-site stormwater management practices under the following conditions:

(A) The Applicant has conclusively demonstrated the infeasibility of on-site stormwater management; and the Department, in its sole discretion, has determined that: (i) off-site stormwater management, pursuant to Section 600.3(d) of its regulations, is also infeasible and (ii) granting the fee in lieu of onsite stormwater management will not adversely affect flooding, stream protection, neighboring properties or be inconsistent with its requirements under its stormwater program, combined sewer overflow program, National Pollutant Discharge Elimination System permits, or any other federal or state law;

or

(B) The Applicant has conclusively demonstrated the feasibility of directing stormwater from the Development Site to an existing off-site SMP owned by the City and maintained by PWD; and the Department, in its sole discretion, has determined that: (i) the existing City-owned SMP has sufficient capacity to manage the additional stormwater and (ii) granting the fee in lieu of onsite stormwater management will not adversely affect flooding, stream protection, neighboring properties or be inconsistent with its requirements under its stormwater program, combined sewer overflow program, National Pollutant Discharge Elimination System permits, or any other federal or state law.

(2) An applicant requesting approval to direct stormwater from the Development Site to an existing SMP owned by the City and maintained by PWD will be responsible for all costs associated with connection to the City-owned SMP.

(3) The amount of the fee in lieu charge is set forth in Section 8.2 of the Department's Rates and Charges.

(4) Application Requirements. The Applicant for fee in lieu must follow the requirements outlined in the Manual.

(5) Nothing herein shall require the Department to grant an Applicant its request for fee in lieu of onsite or off-site stormwater management.

<b>Table of Applicable Stormwater Regulations in Philadelphia*</b>				
		Earth Disturbance Associated with Development		
		0-14,999 sq. ft.	15,000 sq. ft.-1 acre	> 1 acre
Section 600.5(a) Water Quality	New Development	N/A**	Yes	Yes
	Redevelopment	N/A**	Yes	Yes
Section 600.5(b) Channel Protection	New Development	N/A**	Yes	Yes
	Redevelopment	N/A	Exempt	Yes
Section 600.5(c) Flood Control	New Development	N/A**	Yes	Yes
	Redevelopment	N/A**	Yes	Yes
Section 600.5(d) Public Health and Safety Rate	New Development	N/A**	Yes	Yes
	Redevelopment	N/A**	Yes	Yes
Section 600.7 PCSMP Requirements	New Development	N/A**	Yes	Yes
	Redevelopment	N/A**	Yes	Yes

\* – requirements of section may be waived depending on post-development site conditions (See Sections 600.3(a)(2, 3, 4, and 5), 600.5(b) and 600.5(c) for further details).

N/A - Not Applicable, Development project is generally not subject to requirements of indicated Regulations section. If the proposed development results in stormwater discharge that exceeds stormwater system capacity, causes a combined sewer overflow, or degrades receiving waters, the design specifications presented in these Regulations may be applied to proposed development activities as warranted to protect public health, safety, or property.

Exempt – Development project is not subject to requirements of indicated Regulations section.

\*\* - If the Development results in an area of Earth Disturbance greater than or equal to 5,000 square feet in the Darby and Cobbs Creek Watershed, the Development is subject to the requirements of indicated Regulations section.

**Any local, state, or federal requirements still apply.**

**600.4 Erosion and Sediment Control during Earth Disturbance**

(a) All Earth Disturbance must comply with the Erosion and Sediment Control requirements of the Pennsylvania Department of Environmental Protection (PADEP) as specified in 25 Pa. Code § 102.4.

(b) No Earth Disturbance greater than or equal to fifteen thousand (15,000) square feet, 5,000 square feet in the Darby and Cobbs Creek Watershed, shall commence until the Department approves an Erosion and Sediment Control Plan conforming to the regulations of the PADEP.

**600.5 Post-Construction Stormwater Management Requirements**

(a) Water Quality: The Water Quality requirement is designed to recharge the groundwater table and to provide water quality treatment for stormwater runoff.

(1) The following formula shall be used to determine the water quality volume (WQv) in cubic feet of storage for the development site:

$$WQ_v = \left(\frac{P}{12}\right) * (I) \quad \text{Eqn: 600.1}$$

Where:

WQv = Water Quality Volume (cubic feet)

P = 1.5 inches

I = DCIA within the limits of earth disturbance (square feet)

(2) In order to preserve or restore a more natural water balance on a Development Site, the water quality volume shall be infiltrated on site. A list of acceptable practices for infiltration is provided in the Manual.

(3) To determine if infiltration is appropriate on the Development Site, follow the infiltration testing and soil assessment for SMP design procedures found in the Manual.

(4) If the infiltration testing and soil assessment demonstrates that the soil is unsuitable for infiltration, the Applicant shall follow the Infiltration Waiver Request procedure found in the Manual.

(5) Where it has been demonstrated, in accordance with Section 600.5(a)(2) of these Regulations, that a portion or all of the water quality volume cannot be infiltrated on site, the water quality volume which cannot be infiltrated on site must be treated for water quality.

(6) Treatment of the water quality volume is attained differently in combined sewer areas than other areas as specified in the Manual.

(b) Channel Protection: The Channel Protection requirement is designed to minimize accelerated channel erosion resulting from stormwater runoff from the Development Site.

(1) To meet the Channel Protection requirement, SMPs shall retain or detain the runoff from all DCIA within the limits of Earth Disturbance from a one-year, 24-hour Natural Resources Conservation Service (NRCS) Type II design storm in the proposed site condition such that the runoff takes a minimum of 24 hours and a maximum of 72 hours to drain from the facility.

(2) The infiltration and water quality volumes may be incorporated into the channel protection portion of the design provided the design meets all requirements concurrently.

(3) Design criteria and a list of SMPs for channel protection are included in the Manual.

(c) Flood Control

(1) To prevent flooding caused by extreme events, the City of Philadelphia is divided into Management Districts that require different levels of stormwater attenuation depending on location. Management Districts shall be determined for the Development Site using the maps provided in the Manual.

(A) The Table of Peak Runoff Rates for Management Districts lists the

attenuation requirements for each Management District.

(B) A Development Site located in more than one Management District shall conform to the requirements of the district where the discharge point is located.

(d) Public Health and Safety Release Rate

(1) The Public Health and Safety Release Rate requirement is designed to minimize the impact of stormwater runoff from Development Sites to City infrastructure with capacity restrictions as identified by the Department.

**Table of Peak Runoff Rates for Management Districts**

<b>District</b>	<b>Column A NRCS Type II 24-hour Design Storm applied to Proposed Condition</b>	<b>Column B NRCS Type II 24 –hour Design Storm applied to Predevelopment Condition</b>
A	2 – year	1 – year
A	5 – year	5 – year
A	10 – year	10 – year
A	25 – year	25 – year
A	50 – year	50 – year
A	100 – year	100 – year
B	2 – year	1 – year
B	5 – year	2 – year
B	10 – year	5 – year
B	25 – year	10 – year
B	50 – year	25 – year
B	100 – year	50 – year
B-1	2 – year	1– year
B-1	5 – year	2 – year
B-1	10 – year	5 – year
B-1	25 – year	10 – year
B-1	50 – year	25 – year
B-1	100-year	100 – year
B-2	2 – year	1– year
B-2	5 – year	2 – year
B-2	25 – year	5 – year
B-2	50 – year	10 – year
B-2	100 – year	100 – year
C*	Conditional Direct Discharge District	
C – 1**	Conditional Direct Discharge District	

SMPs shall be designed such that peak rates from Column A are less than or equal to Peak Rates from Column B. \* In District C, a Development Site that can discharge directly without use of City infrastructure may do so without control of proposed conditions peak rate of runoff.

\*\* In District C-1, a Development Site that can discharge directly to the Tookany/Tacony-Frankford main channel or major tributaries without the use of City infrastructure may do so without the control of proposed conditions peak rate of runoff greater than the 5– year storm.

Redevelopment located in the Delaware Direct Watershed or Lower Schuylkill Watershed, but situated outside of District C, that can discharge directly without the use of City infrastructure, may do so without the control of proposed conditions peak rate of runoff according to the procedures found in the Manual.

For Conditional Direct Discharge Districts, the proposed conditions peak rate of runoff for a Development Site that discharges to City infrastructure must be controlled to the Predevelopment Conditions peak rate as required in District A provisions for the specified Design Storms. The Predevelopment Condition shall be defined according to the procedures found in the Manual.

## **600.6 Requirements for the Design of SMPs**

### **(a) General Requirements**

(1) In order to provide for the protection of public health and safety and to more effectively manage stormwater in Philadelphia, all SMPs shall meet the requirements of these Regulations.

(2) The existing points of concentrated drainage that discharge onto adjacent land shall not be altered in any manner that could cause property damage without written permission of the owner of the adjacent land.

(3) The design of all SMPs shall incorporate sound engineering principles and practices as detailed in the Manual. The Department may reject any design that would result in the creation or continuation of a stormwater problem area.

(4) All stormwater runoff in excess of any volume infiltrated on site must be routed through a dedicated stormwater pipe and conveyed to an approved connection or point of discharge.

(5) Areas of existing diffused drainage discharge shall be subject to any applicable discharge criteria in the general direction of existing discharge, whether proposed to be concentrated or maintained as diffused drainage areas, except as otherwise provided by these Regulations. If diffused drainage discharge is proposed to be concentrated and discharged onto adjacent land, the Applicant must document that adequate downstream conveyance facilities exist to safely transport the concentrated discharge, or otherwise prove that no erosion, sedimentation, flooding or other impacts will result from the concentrated discharge.

(6) All SMPs shall incorporate maximum ponding and/or draw down requirements consistent with the Manual.

(7) Acceptable calculation methods for the design of SMPs are provided in the Manual.

## **600.7 PCSMP Requirements**

### **(a) General Requirements**

For any activities regulated by these Regulations and the Philadelphia Code Section §14-704(3):

(1) No zoning permit may be issued until the Water Department has approved a Conceptual Stormwater Management Plan.

(2) No Earth Disturbance may commence and no building permit may be issued until the Department has approved a PCSMP. The City may issue a Stop Work Order for projects that disturb earth without an approved PCSMP.

### **(b) Conceptual Approval**

To initiate the conceptual review phase and obtain approval from the Department, the Applicant must evaluate nonstructural stormwater management alternatives, develop a Conceptual Stormwater Management Plan, and submit an online Exiting Resources and Site Analysis (ERSA) application as outlined in the Manual.

### **(c) PCSMP Approval**

(1) To initiate the PCSMP review phase and obtain PCSMP Approval from the Department, the Applicant must prepare and submit a PCSMP. A list of required contents of the PCSMP submittal can be found in the Manual.

(2) For any activities that require state or federal permits, proof of application

or approval of those permit(s) shall be included as part of the PCSMP.

(3) All PCSMP materials shall be submitted to the Department in accordance with submittal procedures as outlined in the Manual.

(d) Project Expirations

Conceptual Stormwater Management Plan approval will expire after one year from the date of issuance. PCSMP approval will expire after two years from the date of issuance. An applicant may apply for extensions based on the procedures found in the Manual.

**600.8 Permit Requirements by Other Government Entities**

(a) Other government entities may require permits for certain regulated Earth Disturbance activities.

(b) Requirements for these permits must be met prior to commencement of Earth Disturbance.

**600.9 Construction and Inspection**

(a) No regulated Earth Disturbance activities shall commence until the Department has approved a PCSMP in accordance with the procedures set forth in these Regulations and the Manual.

(b) Erosion and Sediment Control measures shall be implemented at the start of and maintained throughout Earth Disturbance activities.

(c) All SMPs shall be constructed in accordance with the approved PCSMP.

(d) The Department or its designee may inspect during any stage of Development construction to ensure, at minimum, the ongoing maintenance of Erosion and Sediment Control measures and the proper installation of the SMPs.

(e) An onsite meeting between the Department and the Applicant is required prior to the start of Development.

(f) During any stage of the Development construction, if the Department or its designee determines that any component of the PCSMP is not being installed as approved by the Department, the City may issue a Stop Work Order preventing other on-site construction from proceeding until the deficiencies are corrected.

(g) A final inspection of all PCSMP components shall be conducted by the Department or its designee to confirm compliance with the approved PCSMP prior to the issuance of Certificate of Occupancy, or other equivalent issuance, or use of the Development Site.

(h) Record Drawings for all PCSMP components must be submitted to the Department within 90 days of the conclusion of the final inspection.

**600.10 Operations and Maintenance, and Inspection**

(a) The property owner or designee shall maintain and perform the work necessary to keep SMPs and other stormwater management controls in good working order and performing to their intended design function.

(b) Additional operation and maintenance responsibilities shall be defined as part of the approved PCSMP and in the O & M Agreement.

(c) At such time as the property is transferred, the new property owner shall have the responsibilities as defined in these Regulations, in the approved PCSMP, and in the O & M Agreement.

(d) The property owner shall conduct inspections of the SMPs and other stormwater management controls as

necessary to ensure safe and proper functionality.

(e) No SMP, or other stormwater management control, required by an approved PCSMP shall be altered or removed without the approval of the Department. The property owner shall not allow the property to remain in a condition which does not conform to an approved PCSMP and O & M Agreement.

(f) The Department may accept or reject the operations and maintenance responsibility for any SMPs.

(g) The Department or its designee may inspect the long-term operation and maintenance of the SMPs and other stormwater management controls.

#### **600.11 Stormwater Management Easements**

(a) Stormwater management easements or rights of way are required for all areas used for off-site SMPs or stormwater conveyance, unless a waiver is granted by the Department.

(b) Stormwater management easements shall be provided by the property owner if necessary for access for inspections and maintenance, or for the preservation of stormwater runoff conveyance, infiltration, detention areas and/or other stormwater controls and SMPs, by persons other than the property owner.

(c) The stormwater management easement and its purpose shall be specified when recorded in accordance with section 600.12 of these Regulations.

#### **600.12 Recording of O & M Agreement, Stormwater Management Easements**

(a) The owner of any land upon which SMPs will be placed, constructed or implemented as described in the PCSMP shall be responsible for the recording of the following documents with the Philadelphia

Department of Records:

(1) The O & M Agreement, which shall be included as part of the PCSMP submitted under Section 600.7, and

(2) Easements under Section 600.11 of these Regulations, if applicable.

(b) All recordings shall be at the property owner's expense.

#### **600.13 Prohibited Discharges**

(a) No person shall allow, or cause to allow, a discharge into the City's separate storm sewer system that is not composed entirely of stormwater.

(b) In the event that the Department determines that any discharge to a storm sewer is not composed entirely of stormwater, the Department will notify the responsible person to immediately cease the discharge. The Department may pursue additional enforcement actions as described in City Code §13-603.

(c) Nothing in this Section shall affect a discharger's responsibilities under state law.

#### **600.14 Prohibited Connections**

(a) The following connections are prohibited, except as otherwise provided:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows any non-stormwater discharge including sewage, groundwater, process wastewater, and wash water, to enter the separate storm sewer system.

(2) Any connections to the storm drain system from indoor drains and sinks.

(3) Any drain or conveyance connected from a commercial or industrial land use to the separate storm sewer system that has not been documented in plans,



maps, or equivalent records, and approved by the City.

### **600.15 Enforcement**

(a) Whenever a property owner, Applicant, Developer, or other responsible party has engaged in conduct prohibited by, or failed to meet a requirement of this Chapter 6, the Department may order compliance by notifying the responsible party.

(b) Such notification shall set forth the nature of the violation(s) and establish a time limit for correction of the violation(s).

(c) Failure to comply within the time specified may subject the responsible party to any and all available penalties, including but not limited to a Stop Work Order, fines, a court order, and/or abatement by the City. Such penalties shall be cumulative and shall not prevent the City from pursuing all remedies available in law or equity.

(d) The Department may withhold, suspend, or revoke any approvals upon discovery of the failure of the property owner, Applicant or Developer to comply with these Regulations.