

Sponsored by: Burnett
Public Hearing Dates: May 6 and May 27, 2008
Enactment date: May 27, 2008

CITY OF MARATHON, FLORIDA
ORDINANCE 2008-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, ADOPTING WASTEWATER UTILITY SERVICE RULES AND REGULATIONS; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO IMPLEMENT THE RULES AND REGULATIONS; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY DOCUMENTS AND ACCEPT ANY REAL PROPERTY REQUIRED TO IMPLEMENT THE RULES AND REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on July 17, 2002, the City adopted Ordinance 02-07-12 relating to the provision of wastewater services facilities and programs and providing for the power and authority of the City as the operator of the utility (the "Wastewater Utility"): and

WHEREAS, the City has the power to establish rules and regulations for the use of the Wastewater Utility; and

WHEREAS, the City Council desires to adopt Wastewater Utility Service Rules and Regulations to be utilized in the operation of the Wastewater Utility;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, that:

Section 1. Incorporation. The above recitals are true and correct and incorporated herein.

Section 2. Adoption of Rules and Regulations. The Wastewater Utility Service

Rules and Regulations, a copy of which is attached as Exhibit “A”, together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is hereby adopted.

Section 3. Authorization of City Officials. The City Manager or his designee and the City Attorney are authorized to take all actions necessary to implement the terms and conditions of the Wastewater Utility Service Rules and Regulations.

Section 4. Execution of Documents. The City Manager is authorized to execute any documents necessary to comply with the Wastewater Utility Service Rules and Regulations and to accept any real property, easements and other additional facilities provided to the Wastewater Utility, subject to the approval of any documents by the City Attorney.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

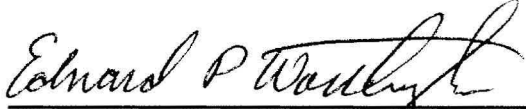
Section 6. Inclusion in the Code. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Marathon, Florida, that the sections of the Ordinance may be renumbered or re-lettered to accomplish to such intentions, and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 7. Repeal of Conflicting Provisions. The provisions of the City Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 8. Effective Date. This ordinance shall take effect immediately upon its adoption.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,
this 27th day of May 2008.

THE CITY OF MARATHON, FLORIDA



Edward P. Worthington, Mayor

AYES: Tempest, Bull, Cinque, Vasil, Worthington
NOES: None
ABSENT: None
ABSTAIN: None


ATTEST:



Diane Clavier, City Clerk

(City Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



Jimmy Morales, City Attorney

**CITY OF MARATHON
ORDINANCE 2008-10**

EXHIBIT A

**WASTEWATER UTILITY SERVICE RULES
AND REGULATIONS**

Article I. Definitions and Construction of Terms

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to these rules; and the term "hereafter" means after, and the term "heretofore" means before the adoption of these rules. Words of one gender include the correlative words of the other gender, unless the sense indicates otherwise. Additionally, the terms set forth below have the following meaning except where the context clearly otherwise requires:

- (1) "Act" or "the Act" refers to The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
- (2) "Active Account" means that an agreement for service exists between an Owner/ Customer and the City, under which the City stands ready to serve and Service is rendered or available on demand and payment for said Service is made or due from the recipient on a Monthly basis.
- (3) "Assessment" means a charge or special assessment (sometimes characterized as a non-ad valorem assessment) imposed by the City to fund the Capital Cost of Utility Improvements or the Operating Cost of Related Services, as provided for in City Assessment resolutions.
- (4) "Available" as applied to a governmentally owned sewerage system, means that the governmentally owned sewerage system is capable of being connected to the plumbing of an establishment or residence, is not under a Department of Environmental Protection moratorium, and has adequate permitted capacity to accept the sewage to be generated by the establishment or residence, and unless determined by a court of competent jurisdiction to be as otherwise provided by law:
 - (i) For a residential subdivision lot, a single-family residence, or non-residential establishment or Building, any of which has an estimated sewage flow of 1,000 gallons per day or less, a gravity sewer line to maintain gravity flow from the property's drain to the sewer line, or a low pressure or vacuum sewage collection line in those areas approved for low pressure or vacuum sewage collection, exists in a public easement or right-of-way that abuts or is within ~~250~~ 5 feet of the property line of the lot, residence, establishment or Building thereof as accessed via existing right-of-way or easements;
 - (ii) For any residential or non-residential establishment, Building or development with an estimated combined sewage flow exceeding 1,000 gallons per day, a sewer line, force main, or lift station exists in a public easement or right-of-way that abuts the property line of the establishment, Building or

- development, ~~or~~ is within 500 5 feet of the property line thereof as accessed via existing right-of-way or easements;
- ~~(iii) For any residential or non-residential establishment, Building or development with common areas, such as condominium associations and home owners associations, a sewer line, force main, or lift station exists in a public easement or right-of-way that abuts the common property line of the establishment, Building or development or is within 5 feet of the common property line thereof as accessed via existing right-of-way or easements;~~
- ~~(iii) For proposed residential subdivisions with more than 50 lots, for proposed non-residential subdivisions with more than 5 lots, and for areas zoned or used for an industrial manufacturing purpose or its equivalent, a sewerage system exists within one fourth mile of the property line of the development or Building as measured and accessed via existing easement or right of way; or,~~
- ~~(iv) For repairs or modifications within areas zoned or used for an industrial or manufacturing purpose or its equivalent, a sewerage system exists within 500 feet of such establishment's, Building's or development's sewer stub out or property line as measured and accessed via existing right-of-way or easements;~~
- (5) "Blackwater" means that part of domestic sewage carried off by toilets, urinals, and kitchen drains.
- (6) "Boat Slip/Dock/Berth" means a slip, dock or berth bordered by a seawall, or a fixed or floating pier used for mooring or docking boats, houseboats, barges, or other types of floating modules or vessels used for or capable of being used for residential, or non-residential use at either marina facilities or on private waterways and properly zoned for such purposes.
- (7) "Biochemical Oxygen Demand or BOD" is a measurement of the amount of dissolved oxygen required to break down the organic matter in water; the higher the BOD, the higher the degree of pollution or concentration of organic matter in water.
- (8) "Building" means any Property or structure, either temporary or permanent, built for the support, shelter or enclosure of Persons, chattels or property of any kind, or any other improvement, use, or structure which creates or increases the potential demand on the water, wastewater and/or reclaimed water utility system operated by the Authority. This term includes trailers, mobile homes, Boat Slip/Dock/Berth, or any vehicle serving in any way the function of a

Building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a Building Permit.

- (9) "Building Permit" means an official document or certificate issued by the authority having jurisdiction, authorizing the construction or siting of any Building. The term "Building Permit" shall also include tie-down permits or other similar authorizations for those structures or Buildings, such as a mobile home or a Boat Slip/Dock/Berth that does not otherwise require a Building Permit in order to be occupied.
- (10) "Business Day" means the period of each day from 8:00 A.M. to 5:00 P.M., Monday through Friday, excluding the City's Official Holidays.
- (11) "Capital Cost" means all or any portion of the expenses that are properly attributable to the acquisition, design, construction, installation, reconstruction, renewal, or replacement (including demolition, environmental mitigation, and relocation) of Utility Improvements related to a capital project.
- (12) "CFR." means the Code of Federal Regulations.
- (13) "City" or "City of Marathon" means the incorporated area of Monroe County identified as the City of Marathon.
- (14) "Council" means the Council of the City.
- (15) "County" means Monroe County, a political subdivision of the State of Florida.
- (16) "Cross-Connection" means any physical arrangement whereby a water supply is connected, directly or indirectly, with any other system capable of imparting contamination to the supply as the result of backflow.
- (17) "Customer" means any Person that accepts or receives Wastewater Service.
- (18) "Day" means one (1) twenty-four (24) hour period.
- (19) "Delinquent Account" or "Delinquency" means that for the Active Account, payments for satisfaction of some or all past and current fees and charges are past due by at least two bill payment cycles of said Active Account, but Service has not yet been discontinued.

- (20) "Delinquent Account Charge" means the charge billed customers when all or part of the payment on their account has become delinquent.
- (21) "Delinquent Account Reactivation Fee" means a charge to be based on the estimated cost of activities associated with such reactivation.
- (22) "Department of Environmental Protection" or "DEP" means the State of Florida Department of Environmental Protection.
- (23) "Department of Health" or "DOH" means the State of Florida Department of Health.
- (24) "Department of Transportation" or "DOT" means the State of Florida Department of Transportation.
- (25) "Developer" means a Person developing property for resale, rental, or lease, to which Wastewater Service may be provided by the City.
- (26) "Discharge" means the introduction of Pollutants into a Wastewater System from any source, directly or indirectly, by means of pipes, conduits, pumping stations, ditches, or tank trucks, and all constructed devices and appliances appurtenant thereto.
- (27) "Domestic Sewage" means human body waste and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from appurtenances at a residence or establishment.
- (28) "Easement" means any legal right for the specific use of land owned by others.
- (29) "Enforcement" means actions taken in response to noncompliance with or violation of these rules or any other applicable rules, regulations, ordinances or laws.
- (30) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.
- (31) "Existing Source" means any building, structure, facility, or installation from which there is or may be a Discharge, the construction of which began before promulgation of Pretreatment Standards applicable to such source.
- (32) "F.A.C." means the Florida Administrative Code.

- (33) "Fiscal Year" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed as the Fiscal Year for the City.
- (34) "Force Main" means a pipe owned by the City and used to transmit Wastewater from a pump station to a treatment facility.
- (35) "Graywater" means that part of domestic sewage that is not blackwater, including waste from the bath, lavatory, laundry, and sink, except kitchen sink waste.
- (36) "Manager" means the Manager of the City.
- (37) "Minimum Design and Construction Standards and Specifications" means the engineering design and construction specification demands of the City related to Wastewater Facilities constructed by any Developer, Owner, Customer or User, which are adopted by reference in these rules.
- (38) "Official Holidays" means the following holidays: New Year's Day, Birthday of Martin Luther King, Jr. (third Monday in January), Memorial Day, Independence Day, Labor Day, Veterans' Day (November 11), Thanksgiving Day, Friday after Thanksgiving, Christmas Day. If any holiday falls on a Saturday, the holiday shall be observed on the preceding Friday; if any holiday falls on a Sunday, the holiday shall be observed on the next Monday.
- (39) "On-Site Treatment and Disposal System" or "OSTDS" means a Wastewater Treatment System utilizing subsurface effluent disposal (absorption field or Class V injection well) such as a conventional septic tank, aerobic treatment unit, on-site wastewater nutrient reduction system, package sewage treatment facilities.
- (40) "Operating Cost" means all or any portion of the expenses that are properly attributable to providing Services under generally accepted accounting principles.
- (41) "Owner" means a Person who is the record owner of any Property, any Person claiming by, through or under such Person.
- (42) "Person" means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, private or governmental, as the context may require.

- (43) "Point of Service" means: the point where the City's Wastewater Facilities connect to Customer-installed, owned, operated and maintained facilities. The Point of Service shall generally be at the point where the Building gravity Wastewater Service Lateral, vacuum main or force main intersects the right-of-way line or, in the event a utility easement exists adjacent to the right-of-way line, at the point where the Building Wastewater Service Lateral, vacuum main or force main intersects the utility easement line furthest from the main.
- (44) "Pollutant" means any dredged spoil, solid waste, incinerator residue, Wastewater, garbage, Wastewater Sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt or industrial, municipal, or agricultural waste discharged into water.
- (45) "Pretreatment" means reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in Wastewater prior to or in lieu of discharging or otherwise introducing such Pollutants into a Wastewater Collection or Treatment System.
- (46) "Property" means any and all real property and tangible personal property affixed to real property served or capable of being served by the City as a result of the existence of a Service Connection.
- (47) "Related Service" means the operation and maintenance of a Utility Improvement.
- (48) "Returned Check" or "Bank Draft" charge is a charge based on the estimated administrative cost of collecting the amount due from the tendered check or bank draft that was not honored by the payer's bank as provided by Chapter 832.07, Florida Statutes.
- (49) "Service" means the readiness to accept, or the acceptance of Wastewater from a Customer at a Point of Service by the City.
- (50) "Service Charge" means the charge assessed customers, per event, when the City travels to the Property or for administrative processing by the City.
- (51) "Service Connection" means the physical attachment of the City's facilities to those facilities of any property through which Wastewater Service is deliverable.

- (52) "Service Initiation" means the date the customer begins to receive services through a Wastewater connection or the date that service is available in a newly constructed wastewater system.
- (53) "Service Installation Fee" means the estimated cost of activities associated with construction of a Wastewater Service Lateral.
- (54) "Service Lateral" means the pipe which connects the City's collection facilities to the Service Connection at the Point of Service. Said pipe is typically situated on private property and is owned, operated and maintained by the Owner.
- (55) "Service Line" means that portion of the Sewer System that extends beyond the end of the building drain and conveys Wastewater to a public, private, or individual Wastewater Collection System, or other point of disposal. In cases where the building is served by a vacuum sewer, the building sewer shall include the gravity line to the vacuum valve collection sump constructed within the public right-of-way or an Easement.
- (56) "Service Unit" means Property, an area, or a module or modules consisting of a delineated space, or an enclosure of one (1) or more spaces or rooms with either appurtenant or common or public bathroom facilities or installations of other Wastewater generating fixtures, and used for a single residential or non-residential use. Service Units fall into the general categories of permanent, boat slip/dock/berth, and mobile.
- (57) "Sewer" means any pipe, conduit, or other device used to collect and transport Wastewater and from which storm water, surface water, and groundwater are generally excluded. As the context requires, the term is synonymous with the term Wastewater or other terms incorporating such term therein.
- (58) "Sludge" means any solid or semisolid waste generated from a Wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a Wastewater treatment plant.
- (59) "State" means the State of Florida.
- (60) "System Development Charge" or "SDC" is a charge to new Customers and to existing Customers who modify, add, or construct facilities that impose a potential increased demand on the City's Wastewater Facilities. The SDC is in addition to any amount that may be expended by the Owner/Customer for system improvements and other fees required by the City.

- (61) "Tampering" means any willful alteration or interference with a water meter or Wastewater system components and facilities owned by the City, except for turning the valve associated with the water meter for the purpose of temporary disconnection of service. Tampering includes obtaining unauthorized Service to a Property or location not subject to an agreement for service between the City and the present occupants or Owners of said Property.
- (62) "User" means any Person responsible for the Discharge of Wastewater into a Wastewater System.
- (63) "Utility Improvement" means a capital improvement constructed or installed by the City for the special benefit of a neighborhood, City, or other benefited area.
- (64) "Wastewater" means liquid and water-carried industrial, domestic, medical, food, superfluous solid, gaseous material, holding tank or other wastes from residences, commercial establishments or manufacturing facilities, whether treated or untreated, which are Discharged into a Wastewater System.
- (65) "Wastewater Collection System" means a system for carrying wastewater including but not limited to, domestic, industrial, medical, holding tank or other waste, to which storm, surface, and groundwater are not intentionally admitted.
- (66) "Wastewater Facilities" or "Wastewater System" means the system comprised of all structures, equipment, and processes required to collect, carry away, and treat domestic, industrial, medical, holding tank and other wastes and dispose of the effluent.

Article II. General

Section 2.01 City Service Area.

The City's Service area includes the territory consisting of the islands of Knights Key, Hog Key, Vaca Key, Boot Key, Palm Key, Stirrup Key, Fat Deer Key, Crawl Key, Little Crawl Key and Grassy Key, including all lands within the City Limits as established in the City of Marathon Charter.

Article III. Provision of Wastewater Service in General

Section 3.01 Availability of Wastewater Service.

The existence of a Force Main or Vacuum Main adjacent to or near the Property of an applicant for Wastewater Service does not necessarily mean that such service is available to that location. Wastewater Service in areas where only Force Mains or Vacuum Mains exist may require the installation of a Wastewater Collection System. The availability of Wastewater Service will be determined by the City.

Section 3.02 Wastewater Connections.

- (1) The Owner of private property is obligated to provide a lateral connection between any improvements on its private property and the Point of Service. Whenever Wastewater Service is required, the Owner must ensure that permitting and construction of laterals, and abandonment of septic tanks, are performed in compliance with applicable law and the City's then-current Minimum Design and Construction Standards and Specifications for Wastewater Systems. The City will, from time to time, adopt testing requirements for gravity sewer components on private property by separate Resolution of the City Council.
- (2) Cross-Connections. Any physical arrangement or connection of pipes, fixture, or other water facility between a system containing water and a system containing Wastewater or any other substance is prohibited. Should such a connection be determined to exist, the City may terminate Service until such time as the connection or arrangement of systems has been reconnected to the City's satisfaction.
- (3) Contiguous Properties. No Customer may extend Wastewater lines across a public street, alley, or other public or private highway or property not owned by that Customer.

Section 3.03 Duty to Make Payment.

A Customer that receives Wastewater Service from the City is responsible for all fees and charges incurred in connection with the rendering of service. Failure to pay amounts due the City within the time designated for payment may result in the disconnection of Wastewater Service until all amounts due the City have been paid in full

Section 3.04 City Powers to Collect Amounts Due.

- (1) The City is authorized to fix and collect rates, rentals, fees, and charges for the use of any Wastewater System facilities.
- (2) The City may provide for reasonable penalties against any User for any charges that are delinquent, including, but not limited to disconnection of wastewater service until all amounts due the City have been paid.

- (3) The City may recover delinquent charges, together with interest, penalties, and fee for shutting off, discontinuing, and restoring such services, together with reasonable attorneys' fees and other expenses to collect said charges by suit in any court of competent jurisdiction, or by any other lawful method of collection and enforcement.
- (4) The City reserves the right to render wastewater fees and charges through the use of a third party billing service. That billing agent may be authorized by the City to impose additional fees and delinquent charges in connection with unpaid bills, and may also employ other means or methods to enforce and recover fees and charges as may be agreed to in writing between the City and billing agent.
- (5) Any and all power or authority available to the City to enforce the use of its facilities whenever and wherever they are available and enforce, recover or collect any rates, fees or charges imposed by the City are cumulative, supplemental, and alternative. The City is not constrained to select a single approach, nor is it constrained to seek a single remedy in enforcing any power or authority available to it.
- (6) The City will use reasonable diligence to provide continuous service, but will not be liable to the customer for any damages or loss caused by system failure or interruption of service.
- (7) The City reserves the right to transfer debts owed by an Owner/Customer for Service provided to a given Property to any other Active Account of the Customer for service, and to take appropriate measures for securing payment of such debt.

Section 3.05 Duty to Protect City Property.

- (1) The Customer is under a duty to exercise due care to protect any Wastewater facilities that are located on the Property.
- (2) The Customer may not allow anyone access to such facilities, except the City's agents or Persons otherwise authorized by law, each of whom will first display to the Customer identification and evidence of authorization for entry.
- (3) When the City's facilities are damaged by contractors, governmental agencies, or others, the City will repair such damage and charge the total cost thereof to the Persons causing the damage.
- (4) In the event of any loss or damage to the City's property or any Wastewater Facilities arising from the negligence or intentional misuse by the Customer, its agents, invitees, or assignees, the total cost of replacing such loss or repairing such damage will be charged to the Owner at cost.

Section 3.06 Tampering.

- (1) Tampering with the City's Wastewater System components or facilities, including but not limited to, collection mains, manholes, Force Mains, pump stations, vacuum valve chambers, vacuum valves, fixtures, appurtenances, security devices, signs, or enclosures is prohibited by Section 812.14, Florida Statutes. Any Person found in a civil action to have violated the provisions of section 812.14, Florida Statutes, may be liable to the City in an amount equal to 3 times the amount of services unlawfully obtained plus reasonable attorney's fees and court costs.
- (2) The Owner must promptly report any Tampering to the City and is responsible for any Tampering caused by its agents or other Persons using the Property with or without the Owner's consent.
- (3) Upon receipt of notification by either an individual or employee of the City that there is reasonable cause to suspect that Tampering with City's property or facilities has occurred at any Property served by the City, the City will cause an investigation to be made of that Property.
- (4) If an on-site inspection verifies that Tampering has occurred, the City will charge a Tampering investigation charge to cover its expenses in conducting said investigation and take measures to deter further Tampering. Any Tampering that results in a substantial reduction in the cost of services received by a person, the City will charge a Tampering Charge.
- (5) Tampering will be presumed to have been caused by the Customer or Owner that receives a monetary or other economic benefit therefrom.
- (6) Tampering that results in a substantial reduction in the cost of services received by a Customer will be presumed to have been known to the Customer if not reported to the City within one billing period after the reduction in the cost of the Service received becomes evident. In such event it will be presumed that the Tampering was willfully allowed to persist by the Customer.
- (7) The City may, without prior written authorization, confiscate any materials or facilities that are connected to the City's Wastewater system for use as evidence in further legal proceedings.
- (8) The monetary charges for Tampering are set forth in Section 9.05 hereof.

Section 3.07 Inspection of Customer Installation.

- (1) All installations of Wastewater Facilities or changes therein are subject to permitting and inspection by the City to ensure that piping, equipment and other facilities have been installed in accordance with the City's Minimum Design and Construction Standards and Specifications.

- (2) The City has the right, but not the duty, to inspect the Customer's installation prior to rendering Service and from time to time thereafter to ascertain the Owner's/Customer's compliance with the agreement for service and the provisions of Service policies, but the City assumes no responsibility whatsoever for any defects that are not detected by any such inspection.

Section 3.08 Customer's Duty to Maintain Installation.

- (1) The Customer may not utilize any appliance or device not permitted by the City, or which may adversely affect Wastewater Service. The City reserves the right to withhold or to discontinue Wastewater Service whenever any such apparatus or device is being used.
- (2) The Customer's apparatus and equipment must be maintained in sound operating condition in accordance with standard practice, the rules of the City, and all other governmental regulations applicable thereto.
- (3) No changes in the Owner's installation that will materially affect the proper operation of the City's Wastewater Facilities may be made without the prior written consent of the City. The Customer is liable for any damage resulting from a violation of this provision.

Section 3.09 Customer Compliance with City Policies.

- (1) The Owner/Customer must comply with the City's connection policies as duly adopted or as they may subsequently be revised, or amended.
- (2) The City has the right to refuse to provide Service or discontinue Service. Failure to comply with the requirements of this subsection may result in disconnection of service.

Section 3.10 City License to Enter upon Property.

As a condition of connection to City Wastewater Service, the owner and occupant of the Property upon which required facilities extensions and connections are located grants a license to the City to enter upon the affected Property for the following purposes:

- (1) To inspect the installation or connection. The City has the right, but not the duty, to make on-site inspections.
- (2) To discontinue and shut off services to delinquent accounts.
- (3) To remove the City's property.
- (4) For other purposes incidental to performance or termination of Wastewater Service.

The Owner may not impede free access to any City facilities or other infrastructure connected to or served by City facilities.

In the event the City is unable to obtain access, Wastewater Service may be terminated.

Section 3.11 Right to Refuse Service.

. The City may refuse to extend Wastewater Service to any person on the basis of a use detrimental to the system, lack of payment of required fees or charges, or for any other reason which, in the judgment of the City, applying sound engineering principles, will cause the proposed service extension not to be of benefit to the City. No payment of costs, submittal of an application or other act to receive, Wastewater Service will guarantee that such service will be made available.

Section 3.12 Emergency Action.

The City Manager may take whatever emergency action he deems necessary and appropriate to protect persons or property from any injury, loss, or damage which may reasonably be expected to result from each specific violation of these Rules and Regulations. The violator shall be responsible for all costs incurred by the City for any emergency measures performed by or at the request of the City Manager as a result of any such violation attributable to the Violator.

Article IV. Mandatory Connection

Section 4.01 Mandatory Connection Findings.

The City has ascertained, determined, and declared that:

- (1) The Florida Legislature has identified the Florida Keys as an area of critical state concern; pollution and questionable water quality resulting from the absence of adequate Wastewater Treatment throughout the Florida Keys is a threat to the environment and the health, safety and welfare of landowners and persons inhabiting the Florida Keys.
- (2) The Florida Legislature has charged the City with the responsibility to plan and provide for water and sewer systems within the Florida Keys and to enforce the use of its Wastewater Facilities whenever and wherever they are accessible.
- (3) The Florida Legislature has empowered the City to both prohibit the use of and mandate the use of Wastewater Facilities within the Florida Keys.
- (4) The Florida Legislature has authorized, and the County and the City have enacted, local legislation that requires connection to a central sewage system within specified time periods, even if the affected Property is receiving treatment from a lawful and adequate Onsite Sewage Treatment and Disposal System.
- (5) The City has embarked upon the creation of Wastewater System to manage and treat Wastewater and improve the water quality in the Florida Keys. The presence of the City's Wastewater Facilities is intended to enhance and benefit the environment and the health, safety and general welfare of landowners and persons inhabiting the Florida Keys.
- (6) Mandatory connection to the City's Wastewater System is fundamental to the successful financing, creation, and operation of the City's Wastewater System.
- (7) Mandatory connections to a governmental utility system and the subsequent charges flowing therefrom have long been held to be a proper exercise of a governmental power to regulate and protect the welfare of the public.

Section 4.02 Duty to Connect.

- (1) The Owner of an improved parcel of land must, at the Owner's expense, connect any On-Site Sewage Treatment and Disposal System (including decommissioning any such On-Site Sewage Treatment and Disposal System and connection of the collection facilities served thereby to the City's Wastewater System) and or a Building's plumbing to the City's wastewater system upon written notification that the City's Wastewater Facilities are available for

connection, as that term is defined in applicable law. Connection shall occur within thirty (30) days of the written notice of availability of services, or as otherwise provided by law. On the date of mandatory connection, billing for Base Facility charges as described in Section 10.02 hereof shall commence. Sixty (60) days after the date of mandatory connection, billing for volumetric charges as described in Section 10.02 hereof shall commence.

- (2) No less than one (1) year prior to the date the City's Wastewater System is expected to become available, the City has agreed to notify the affected Owners of the anticipated availability of such wastewater facilities and the fact that such Owners shall be required to connect, at their expense, to the City's Wastewater Facilities within thirty (30) days of actual availability, or as otherwise may be provided by law. Failure to timely provide such notice or failure of any individual Owner to timely receive such notice shall not serve as a bar to enforcement of mandatory connection by the City.
- (3) Where the City's Wastewater System is available to Property with an existing OSTDS, the Owner must decommission, abandon, or otherwise disconnect from the existing OSTDS in accordance with the requirements of the Florida Department of Health and the Florida Department of Environmental Protection, and must connect the Buildings on the Property to the City's Wastewater System.
- (4) All connections shall be consistent with and governed by the City's agreement for service provisions and all other applicable City rules and regulations relating to wastewater and the provision thereof.

Section 4.03 Failure to Connect.

- (1) An Owner that fails or refuses to connect its Property to the City Wastewater Facilities within the time specified after receipt of written notification of the availability of Service is still responsible for the payment of fees and charges imposed by the City in connection with the provision of Wastewater Service, even if the Property does not actually receive Wastewater Service due to failure of the Owner to connect to the City Wastewater Facilities. Such Property shall be billed by the City as set forth in Section 4.02(1) above.
- (2) In the event an Owner fails or refuses to connect the Property, any OSTDS or a building to the City's Wastewater Facilities within ~~450~~ 360 days of the date of the date of mandatory connection, or by state and/or local rules and regulations, the City may seek and employ any legally available remedy to cause the installation of the on-site wastewater facilities necessary to effectuate the connection of the

Property to the City's Wastewater System. Under such circumstances, any installation by the City may be performed after reasonable efforts by the City to solicit, and in deference to, the Owner's requests, if any, concerning the placement, manner, use and disposition of the installation on the Property subject to the applicable City's minimum design and construction standards and specifications which are reasonably necessary to protect the efficiency and integrity of the City's Wastewater System.

- (3) In the event an Owner fails or refuses to connect the Property, any OSTDS or a building to the City's Wastewater Facilities within ~~150~~ 360 days of the date of mandatory connection, or by state and/or local rules and regulations, the City may seek to otherwise compel connection by any other available means, including judicial process, and will proceed to collect all SDC charges, monthly charges, and other charges to which the City is entitled if the Owner had connected the Property.
- (4) In the event the City is required to seek a writ or order, or otherwise litigate any action compelling connection, all costs of such action incurred by the City including attorney fees and court costs will be assessed to the Owner.

Article V. Classes of Wastewater Service

The City may establish classes of Wastewater services and the rates charged to each class by Resolution.

Article VI. Provision of Wastewater Service to Unimproved Parcels

Section 6.01 Unimproved Parcel in an Improved Subdivision.

- (1) In a case where the City is constructing Wastewater Facilities within an improved subdivision, the City will, in its discretion, provide Wastewater Facilities to unimproved parcels within the subdivision when the City concludes that the best interests of the City would be served thereby.

Section 6.02 Developer's Agreement for Future Wastewater Service.

- (1) Prior to the commencement of construction of facilities or structures on individual Property or on an approved development, the City may enter into a Developer's Agreement with an Owner/Developer for the purpose of assuring the availability of Wastewater Service to the development upon completion of construction. Such assurance is conditioned upon fulfillment by the Owner/Developer of the requirements of the agreement for service.
- (2) The Owner/Developer must pay in advance all System Development Charges, and other fees and charges required under the Developer's Agreement and the agreement for service.
- (3) Failure to comply with the terms of the Developer's Agreement may result in the City declining to provide Wastewater Service upon completion of the development, until the terms of the agreement for service and the Developer's Agreement are fully satisfied, including payments of applicable assessments and Delinquent Account penalties.
- (4) The execution of a Developer's Agreement does not exempt the Owner/ Developer from compliance with the City's Minimum Design and Construction Standards and Specifications for Wastewater Systems and the obligation to obtain all requisite federal, state, and local governmental permits, licenses, or approvals.
- (5) The Developer's Agreement is not an agreement for service.
- (6) The City will charge a Plan Review Fee to be adopted from time to time in a Rate Resolution by the City Council.

Section 6.03 Construction and Connection of Systems on Private Property.

As part of the construction of new wastewater systems, the City may, in certain cases and only through an Agreement with the Property Owner, construct wastewater collection and transmission systems on private property when it is determined to be in the best interests of the City and the users of the new system. This policy applies only to the construction of wastewater systems in areas receiving wastewater service from the City for the first time.

Article VII. Extension of Wastewater Facilities.

Section 7.01 General.

This Section provides information regarding the City specifications, requirements, and procedures for obtaining a commitment for Wastewater Service to new or existing facilities on a Property. These general requirements will also be followed by persons desiring to obtain service for an existing or proposed single-family dwelling.

Section 7.02 Extension of Wastewater Facilities on Request

- (1) An Owner seeking to obtain a commitment for Wastewater Service from the City for new development or re-development of an existing property that may require the installation or extension of Wastewater Facilities must identify system capacity needs for, or must have previously identified the number of EDU's corresponding to, the anticipated requirements of the project. The Owner must complete and provide to the City sufficient information for the City to determine whether extension of Wastewater Facilities to the new development or re-development is practicable and in the City's best interest.
- (2) Acceptance of Wastewater Facilities located within an Easement available to the City is subject to the exercise of sound engineering judgment taking into consideration the size of the facilities, topography, and maintenance and operating constraints. Right-of-way or easements located along rear or side-lot lines may be rejected.
- (3) Prior to acceptance, the Owner must provide a written warranty (in a format approved by the City) on all Wastewater Facilities, wherein the contractor guarantees correction of any defects in the work for a period of three years (or five years in the case of lift station and vacuum station pump and motor assemblies) from the date of final DEP certification. This obligation must be secured by a maintenance bond or irrevocable letter of credit, up to the amount of one hundred and ten percent (110%) of actual construction cost. Furthermore, the Owner shall deliver to the City a Bill of Sale transferring clear title of all facilities accepted as well as a written assignment of any applicable easement.

Section 7.03 System Design; General Criteria.

- (i) The City will adopt Minimum Design and Construction Standards and Specifications for Wastewater Systems.

Article VIII. WASTEWATER PRETREATMENT

Section 8.01 Purpose and Policy.

- (1) The City will not accept any Wastewater that does not meet the City's standards for acceptance. Prior to accepting Wastewater from any Customer, other than a residential Customer, the City may require that the Customer demonstrate that the Wastewater meets City standards
- (2) The discharge of pollutants harmful to the City's wastewater system structures and biological processes are prohibited.
- (3) The introduction of storm water, ground water, air-conditioning condensate, closed system cooling water or other uncontaminated water is prohibited. If the introduction of such water is suspected, the City may require the Customer to investigate the cause of the introduction of the water and to make the necessary repairs or modifications to prevent further introduction.
- (4) Certain Customers, such as restaurants and others that include food preparation facilities may produce wastewater containing high levels of fats, oils and greases. Such Customers will be required to install, operate and maintain grease interceptors meeting the requirements specified by the DOH. The wastewater discharge from these facilities, even when passed through a properly sized and maintained grease interceptor, may contain elevated levels of Biochemical Oxygen Demand (BOD). A surcharge may be applied to the Customer's wastewater services bill for wastewater discharges with a BOD in excess of 500 parts per million. The surcharge will be applied at a rate to be adopted from time to time in a Rate Resolution by the City Council

Article IX. Fees and Charges

The City is authorized to impose fees and charges as appropriate to the construction, operation, and maintenance of its Wastewater System. Rates, fees, and charges shall be established by Resolution of the City Council.

Section 9.01 Plan Review Fee.

The City provides typical plans and specifications for connection of single-family residences and single unit non-residential buildings with maximum monthly flows of less than 1,000 gallons per day to the City Wastewater Facilities. The City requires that all Owners of Properties obtain a Building Permit prior to construction of on-site plumbing. The City does not charge an additional fee to review plans or to inspect installations of typical connections for single family residences and single unit non-residential buildings by a licensed plumbing contractor.

For all other connections, the City will charge wastewater plans review fees to be adopted from time to time in a Rate Resolution by the City Council.

Section 9.02 System Development Charge (SDC).

- (1) System Development Charges are established according to annual Assessment Resolutions adopted by the City Council. All Assessment Resolutions are incorporated herein by reference

Section 9.03 Monthly Customer Fees.

- (1) Monthly Customer Fees shall be adopted in a Rate Resolution, incorporated herein by reference.

Section 9.04 Pretreatment Fees.

- (1) Pretreatment Fees shall be adopted from time to time in a Rate Resolution by the City Council.

Section 9.05 Tampering Charge.

The charges for Tampering shall be adopted from time to time in a Rate Resolution by the City Council.

- (1) In the case of unauthorized Industrial Waste Discharge, an Industrial Waste Surcharge will also apply.
- (2) In cases of meter by-pass, or meter reversal, straight connection or other form of Tampering that results in a substantial reduction in the cost of service, the account of the Customer will be back billed based on the estimated amount of wastewater flow not paid for. This estimate will be based upon:
 - (i) One hundred and fifty percent (150%) of the average water consumption during the previous six (6) Active Account months prior to the time such meter Tampering is estimated to have occurred, or in the event the Customer does not have a history of six (6) Active Account months, one hundred and fifty percent

(150%) of the average water consumption for a Customer served by the City with a similar Class of Service during the most recent one (1) year period for which such figures are available;

- (ii) When Tampering has occurred but the meter has not been disturbed, the Customer will be back-billed for the amount of wastewater flow, as indicated by the water meter, for which payment has not been received by the City.
- (3) Any further legal action deemed appropriate will also be pursued, and all costs associated therewith are assessable to and charged to the Customer, including attorney fees.

Section 9.06 Service Charges.

- (1) The City will charge a Service Charge for each instance in which Wastewater Service is connected or terminated, except for cases in which the City is called to disconnect service as a result of a sudden leak or when an account is final billed at the Customer's request.
- (2) A Service Charge will also be charged for each instance in which the City is required to travel to the Property of the Customer to investigate or respond to what is ultimately determined to be a violation of the terms of the agreement for service. Also, at times during the course of normal system operation, the City may be requested by a Customer to inspect a wastewater system line for damage and/or blockage. The City may levy a Service Charge if after such inspection it is determined that the damage and/or blockage was due to action by the Customer or if the damage and/or blockage are located on the Customer's side of the point of connection to the City's wastewater system.
- (3) Service provided between the hours of 8:00 A.M. and 4:00 P.M. during business days will be at the regular Service Charge set by Resolution of the City Council. Service provided at Customer's request between the hours of 4:00 P.M. and 8:00 A.M., or on weekends and holidays, will be at the Emergency Service Charge to be adopted from time to time in a Rate Resolution by the City Council.
- (4) Service orders received after 4:00 P.M. on business days will be deemed received on the following business day and processed at the regular service rate, unless emergency service is specifically requested by the Customer.

Section 9.07 Wastewater Main Extension Reimbursements.

- (1) Reserved..

Article X. Direct Billing and Payment for Service

Section 10.01 Billing Period; Due Date.

- (1) Customers will be billed on a monthly basis. Billing will commence upon initiation of Service or the mandatory connection date, whichever is earlier.
- (2) Payments for services are due upon rendition of the bill. Non-receipt of a bill by the Customer will not release the Customer from the duty to make reasonable inquiry as to the amount of the bill and prompt payment thereof, on or about its due date, in accordance with the Customer's billing cycle.

Section 10.02 Description of Monthly Billing Charge.

- (1) The City will have the responsibility for the establishment of the rates for monthly wastewater and irrigation quality water service, which may be modified from time to time in terms of rate level and structure. There shall be a monthly charge imposed for wastewater and irrigation quality water service composed of a Base Facility charge and a volumetric charge for wastewater and irrigation quality water service differentiated primarily by service class, and amount(s) consumed, with the particular Customer User rates and schedules as established from time to time by the City.

Section 10.03 Returned checks

- (1) The City will impose a Returned Check Charge for each dishonored check that is returned by the bank. Only cash, cashier's checks or money orders will be accepted as payment for checks which have been dishonored. The Customer's account will be annotated upon receipt of a dishonored check. Issuance of two (2) dishonored payments within an eighteen (18) month period will preclude the acceptance of another check for a period of 12 months from date of settlement of the first dishonored check, or bank draft. During this time only cash, cashiers checks or money orders will be accepted for payment.

Section 10.04 Delinquent Accounts.

- (1) An account will be considered delinquent if payment for Service is not received by the City by the due date. If the due date falls on a weekend or Official Holiday, it will be extended to the next business day. In the event partial payment of a bill is made, that portion of the bill not paid within thirty (30) days of billing will be considered delinquent.
- (2) Delinquent Accounts will be charged a Delinquent Account Charge in the amount greater of \$4.00 or ten percent (10%) of the total amount that is the delinquent outstanding balance.

- (3) Service may be discontinued if the total delinquent amount that is past due is not received by the City within 30 days after the due date.
- (4) For Service to be restored, the Customer must request restoration of Service and pay all amounts due, including the applicable service charge.
- (5) In the event the account has been final billed as a result of account delinquency, Service will not be restored until the Customer has paid all applicable fees, outstanding balances due, and service charges.
- (6) Notwithstanding any other provision of these rules, when Wastewater Service is subject to discontinuance (disconnection) or has been discontinued due to account delinquency, the City may restore such Service prior to payment of all amounts due, provided the Customer has entered into a negotiated payment agreement.
- (7) Failure to pay amounts due the City within the time designated for payment will result in the City exercising all reasonable business efforts to collect such unpaid amount, including delinquent fees, interest, attorney fees and filing charges.

Section 10.05 Billing Disputes; Mistakes.

- (1) In the event of a billing dispute, the Customer must contact the City or the billing agent and request an investigation of the account. The City will record the relevant account information, nature of the dispute or alleged mistake and date of contact.
- (2) The City will investigate the billing and respond by mail within sixty (60) calendar days. If the response is not satisfactory to the Customer, the Customer may within five (5) business days from the date of mailing request further review by the City Manager, who will respond to the Customer by mail within five (5) business days.
- (3) The City will not disconnect service for non-payment of the disputed amount during the period commencing with the request for investigation of the account and ending with a response from the City or the Manager, provided that the Customer has requested an investigation prior to the Account becoming delinquent. In the event the dispute is resolved against the Customer, the Customer will have five (5) business days to pay the disputed amount, and will thereafter be subject to Disconnection of Service and other charges.

Section 10.06 Third Party Billing.

- (1) The City reserves the right to enter into billing agreements with third party billing agencies, such as the Florida Keys Aqueduct Authority. In that case, the billing and payment procedures agreed to by and between the City and the billing agent will apply to Customers who receive wastewater service.

Article XI. Enforcement and Penalties

Section 11.01 Violations

- (1) Violations of this Chapter may be enforced as authorized by Chapter 162, Florida Statutes, a notice to appear in County Court issued under Section 162.23, Florida Statutes, a citation issued pursuant to Section 162.21, Florida Statutes, or by any other method authorized by law for assuring compliance with the terms of this Ordinance, including suits for injunctive relief.
- (2) The City may also avail itself of enforcement procedures set forth in Sec. 1-7 of the City Code.
- (3) The City shall have a lien on all lands and premises served or to be served by the City's Wastewater Utility system for all rates, fees, charges and costs attributable to service to such lands and premises or arising out of a duty or liability imposed by this service policy until paid, which liens shall be prior to all other liens on such lands or premises except the lien of state, county, and municipal taxes and shall be on a par with the lien of such state, county and municipal taxes. Such liens, when delinquent for more than 180 days, may be foreclosed by the City in the manner provided by the laws of Florida for the foreclosure of mortgages on real property.