

CHAPTER 101

SANITARY SEWER SYSTEM - ENFORCEMENT

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101.01 NOTICE OF VIOLATION. The Public Works Director may issue a notice of violation with or without an order against any user deemed to be in violation of these Sanitary Sewer chapters. The notice of violation shall be served upon the user either by personal delivery or by first class mail addressed to the user, except that an immediate cease and desist order may be written or oral, and may also be served by telephone. The notice of violation shall specify the following:

1. Date and time of issuance.
2. Date(s), time(s), and place(s) of violation, the nature of the violation, the substances discharged, where ascertainable and the volume of the discharge, where applicable.
3. Reference to the pertinent section of this chapter under which the violation is charged.
4. Reference to the pertinent section of this chapter establishing penalties for the violation.
5. The right of the alleged violator to present to the Director of Public Works written explanations, information, or other materials in answer to the notice of violation, including any defenses.

Within 30 days of the notice, the user shall submit a plan for the satisfactory correction of the problem to the City.

101.02 ORDERS. Whenever the Director of Public Works has determined that any user has violated these Sanitary Sewer chapters or other applicable laws or regulations which the City is authorized to enforce, the Director of Public Works may issue an order, with or without a notice of violation and whether or not a notice of violation was previously issued, to take actions deemed appropriate by the Director of Public Works under the circumstances.

101.03 TYPES OF ORDERS. The following orders may be issued by the Director of Public Works:

1. **Immediate Cease and Desist.** An order to immediately cease and desist from discharging any wastewater or pollutant which presents or may present imminent or substantial endangerment to the health or welfare of persons or the environment, or could cause interference with the operation of the POTW. The order shall be final and in effect until a hearing, if requested, is concluded and a final decision is made by the Director of Public Works pursuant to this chapter.
2. **Order to Show Cause.** The Director of Public Works may issue an order to show cause why an order to cease discharge by a certain time and date or perform other actions should not be issued. The order may contain conditions or requirements as deemed

appropriate by the Director of Public Works, including, but not limited to, a requirement to do the following:

- A. Submit samples
- B. Install sampling or monitoring equipment.
- C. Submit reports.
- D. Permit access for inspection, sampling, tests, monitoring and investigations.
- E. Install, operate, upgrade and maintain pretreatment equipment.
- F. Reduce or eliminate a discharge or pollutants in a discharge.
- G. Payment of applicable fees.

3. Content of Orders. Any order issued by the Director of Public Works shall contain the facts and reasons and grounds for its issuance, and the remedial action ordered as well as the time within which such action shall be taken. No such order shall be deemed insufficient, however, for inconsequential errors and omissions in the facts and reasons and grounds for the order. Multiple orders may be issued simultaneously or in combination as a single order by the Director of Public Works with respect to a single user.

101.04 DISCONNECTION. The Director of Public Works may physically disconnect a user from the collection system if the user violates any provision of a final order or an issued immediate cease and desist order (whether final or not).

101.05 RIGHT TO HEARING. A hearing may be requested in writing by any user deeming itself aggrieved by any notice of violation, order, surcharge or action on a permit by the Director of Public Works within thirty (30) calendar days after the notice of violation, order, notice of a surcharge, or action on a permit has been served upon such user. The request for a hearing shall be submitted to the Director of Public Works in writing and the Director of Public Works shall provide written response outlining further actions within 30 days of receipt of the request of hearing.

101.06 REVOCATION OF PERMIT.

1. Conditions for Revocation. Any user who violates any condition of a wastewater discharge permit, or any of the following, is subject to having the permit revoked in accordance with the procedures of this section:
 - A. Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - B. Failure of the user to report substantial changes in process activity or in volume or character or pollutants being introduced into the POTW at least ninety days prior to such change;
 - C. Tampering with monitoring equipment;
 - D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;
 - E. Violation of permit conditions;

- F. Violation or breach of any treatment agreement;
- G. Failure to report an upset, failure and/or bypass of user's pretreatment facilities;
- H. Failure to pay fines, fees or sewer users charges;
- I. Failure to follow enforcement orders or compliance of schedules;
- J. Failure to correct a condition that impedes or alters the POTW's ability to monitor the user's discharge or has the potential to cause interference or pass through.

2. Procedures for Revocation.

- A. Any permit issued to a user may be revoked for any action which is subject to revocation under this section. No revocation shall be issued except upon notice delivered to the users by mailing the notice in the regular mail at the address listed on the wastewater discharge permit, a minimum of ten (10) days prior to the date set for hearing before the Director of Public Works. Such notice shall inform the user of the time, date, and place of the hearing, the purpose of the hearing and shall set out the reasons therefore.
- B. If, after having a hearing, the Director of Public Works makes a finding based on substantial evidence that action subject to revocation has occurred as alleged, the Director of Public Works may suspend, continue suspension of, or revoke the permit; the determination of such action shall be in the discretion of the Director of Public Works and shall be dependent upon the circumstances surrounding violations by the user and their severity.
- C. The decision of the Director of Public Works to suspend, continue suspension, or to revoke the permit of a user whose discharge occurs within the City may be appealed to the Council. The decision of the Director of Public Works to suspend, continue suspension, or to revoke the permit of a user whose discharge occurs within another constituent community may be appealed to the Council. In order to appeal such decision, written notice of appeal must be filed with the Clerk within three days after receipt of the decision. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the decision of the Director of Public Works.
- D. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. An appeal hearing before the Council shall be scheduled at or before the next regular Council meeting, if such notice is received by 5:00 p.m. on the Wednesday before the next regular Council meeting. If notice is not received by the above designated time, the hearing will be scheduled at or before the next following Council meeting, if notice is received within three days after receipt of the decision by the Public Works Director. The hearing may be continued for good cause. The hearing shall be confined to the record made before the Director of Public Works and the arguments of the parties or the representatives, but no additional evidence shall be taken. After such hearing, the Council may affirm or reverse the order of the Director of Public Works. Such written decision shall be filed with the Clerk within three days after the hearing, or any continued session thereof.
- E. A user whose permit has been revoked shall not be eligible for another permit until thirty days after the violating conditions have been corrected to the satisfaction of the Director of Public Works.

101.07 LEGAL ACTION. If any person discharges sewage, industrial wastes or other wastes into the City's wastewater disposal system contrary to the provisions of these Sanitary Sewer chapters, federal or state pretreatment requirements, or any order of the City, the City Attorney may commence an action for appropriate legal and/or equitable relief in the court of this country.

101.08 CONTINUING OFFENSE. Each and every day, or portion thereof, of any violation of these Sanitary Sewer chapters or a use permit or a final order issued under this chapter by any user shall constitute a separate and new violation by such user and shall be punishable as herein provided for civil and criminal penalties.

101.09 TERMINATION OF SERVICE. When ordered by the Council or when fees and surcharges remain delinquent, the following notice shall be forwarded by registered mail, return receipt requested, certified mail, or personal service to the occupants at the address of the building being service by the City:

NOTICE OF INTENT TO TERMINATE SERVICE

You are hereby notified that due to (insert reason for termination), the wastewater service to the building located at (insert address) will be terminated within ten (10) days hereafter unless you have corrected the above situation. Your service will be disconnected and your building will be red-tagged as unfit for human occupancy on the fortieth (40th) day after date of this notice. Date_____.

CITY OF POSTVILLE, IOWA

By:_____
Director of Public Works

The City hereby declares that it is against public policy for a building to be occupied by human inhabitants which has been red-tagged by the Director of Public Works after appropriate notice has been given that the building is "a public nuisance and unfit for human occupancy." In the event that such user fails to correct the cause for the above-notice, the following notice shall be forwarded by registered mail, return receipt requested, certified mail, or personal service to the occupants of the building and also affixed to the building or housing unit within a building:

NOTICE OF TERMINATION

You are hereby notified that there has been no response to the Notice of Intent to Terminate Service and the ten (10) day period stated therein has lapsed. You are hereby notified that on (here insert date five days after service of this notice), the City will physically disconnect the building sewer to your building from the sewage system to which it is connected and will red-tag the building located at (here insert address) as "unfit for human occupancy." Dated_____.

CITY OF POSTVILLE, IOWA

By:_____
Director of Public Works

The manner of severance and procedure for disconnection shall be determined by the Public Works Department. Upon completion of said disconnection, the Clerk shall forward to the occupant of the building by registered mail, return receipt requested, certified mail, or personal service a bill for the

cost of making the disconnection, including all costs for labor and materials and a one hundred dollar (\$100.00) service charge for City supervision.

101.10 REINSTATEMENT OF SERVICE. In the event of severance of service, the service may be reinstated in the following manner:

1. Upon payment to the City of any delinquency in full, plus penalties, plus the cost of the disconnection and the one hundred dollar (\$100.00) City supervision fee, and an inspection by the Director of Public Works to determine whether the original cause for termination has been corrected, the City will issue a permit for reconnection of the building service line to the POTW. Such reconnection costs, plus inspection fees for the City, shall be at the sole expense of the user.
2. Upon reconnection and payment of all costs described above, the City, through its agents, shall remove the red-tag from the building and the building shall, so far as the City is concerned, be "fit for human occupancy."

101.11 ADDITIONAL REMEDIES.

1. In addition to remedies available to the City set forth elsewhere in this chapter, if the City is notified of a violation or fined by the Iowa DNR or USEPA for violations of the City NPDES permit or violations of water quality standards as the result of a discharge of pollutants by identifiable user(s), then the fine, including all City legal, sampling, analytical testing, costs and any other related costs shall be charged to the responsible user(s). Such charge shall be in addition to any other remedies the City may have under this chapter, at law or inequity.
2. If the discharge from any user results in a deposition, obstruction, damage or other impairment to the POTW, the user shall become liable to the City for any expense, loss or damage caused by the violations or discharge. The City may add to the user's charges and fees the cost assessed for any cleaning or repair, or replacement work caused by the violations or discharge.