CITY OF BROOKINGS
RULES AND REGULATIONS GOVERNING MUNICIPAL UTILITIES

ARTICLE I

Section 1

Purpose and Authority

These rules are promulgated by the City of Brookings by and through the Municipal Utility Board established by the City. The purposed herein is to establish a uniform system of utility management and utilization by the City and its citizens (customers) and to establish rules that are hereby declared to be necessary for the efficient, economic and safe operation of all utilities. The operation of all utilities, including electric, wastewater and water, and telephone system are hereby declared in accordance with previous decisions of the electorate of the City of Brookings and necessary governmental functions of the City.

Cross reference and authority:

SDCL Chapter 9-39	--	Municipal Utilities in General
SDCL Chapter 5-18	--	Bid Requirement as Made Applicable by 9-39-20
SDCL 6-1-1 et seq.	--	Contracts with Utility Board Members
SDCL 9-39-15	--	Rules for Utility Bond Proceedings
SDCL 9-39-23	--	Rates, Fees, Charges and Assessments – Rules and Regulations
SDCL 9-41	--	Municipal Telephone Systems
S.D. Constitution Article IX, Section 2		
SDCL 6-12-1 to 15	--	Home Rule

Brookings Ordinance 715:

Chapter 35-5	-- Violation of Rules, Misdemeanor
Chapter 35-31	-- Rates as Established by Rules
Chapter 35-35	-- Rates as Established by Rules
Chapter 35-48	-- Creation of Utility Board

As used herein, the term Utilities will refer to the City of Brookings Municipal Utilities.

CITY OF BROOKINGS
RULES AND REGULATIONS GOVERNING MUNICIPAL UTILITIES

Section 2

Severability

If the provisions of any Article, Section, paragraph, or sentence of these rules and regulations shall for any reason be held to be unconstitutional or invalid by any Court of competent jurisdiction, any provisions of the remaining Articles, Sections, paragraphs and sentences shall nevertheless continue in full force and effect. These rules Cancel and supersede all other rules of the Utility issued individual pages of these rules.

Section 3

Explanation of Symbols

(C) – Change in regulation or condition which affects a rate or charge

(D) – Discontinued regulation, condition, rate or charge

(I) - Increase in rate or charge

(N) – New regulation, condition rate or charge

(R) - Reduction in rate or charge

(T) - Change in text only – no change in regulation, condition, rate or charge

BYLAWS

ARTICLE II

BYLAWS
OF THE BROOKINGS MUNICIPAL UTILITIES BOARD

Section 1

The name of this Board shall be the Brookings Municipal Utilities Board.

Section 2

Purpose and Explanation

Section 2-1. Object.

The object of this Board shall be to manage and control the electric, water and wastewater utilities, the telephone systems and the PCS system of the City of Brookings in the best interests of the citizens of the City of Brookings and the customers it serves.

Section 2-2. Word Usage.

For purposes of these Bylaws, words used in the present tense shall include the future; words in the singular shall include the plural, the plural the singular; words used in the masculine shall include the feminine, and the feminine the masculine.

Section 3

Governing Body

Section 3-1. Name.

The governing body shall be known as the Brookings Municipal Utility Board, hereinafter known as the Board.

Section 3-2. Powers.

Subdivision 1. The Board shall exercise all powers and authority which may now or hereafter be granted to a Municipal Utility Board in this State by the constitutions and laws of this State and of the United States and ordinances of the City of Brookings. This document shall be construed liberally in favor of the Board, and the specific mention of particular powers shall not be construed as limiting in any way the generality of the power herein sought to be conferred.

Subdivision 2. Specifically included but not in limitation of the Board's powers and authority are:

a. The Board shall have the power to manage and control the electric, water, and wastewater utilities, the telephone systems and the PCS system of the City and such other utilities as shall be created and placed under the control of the Board.

b. The Board shall have the power to extend, modify or rebuild any public utility under its management and control, and to do anything such Board deems necessary for the proper and efficient operation of such utility. The Board may enter necessary contracts for these purposes subject to the general law applicable to the Utility Board contracts.

c. The Board shall have the power to employ all necessary help for the management and operation of the utility or utilities under its control and management, prescribe duties of officers and employees and fix their compensation. Employees classified as management personnel shall be appointed by the Board and may be removed by the Board. All other employees shall be appointed by the Manager and may be removed by him.

d. The Board shall have the power to buy all fuel and supplies and where the utility is engaged in distribution it may purchase wholesale electric energy, gas or water as the case may be for municipal distribution.

e. The Board shall have the power to fix reasonable rates, fees and charges, and make special assessments for improvements in the same manner as the City Commission.

f. The Board shall have the power to adopt, by resolution, reasonable rules and regulations for utility services supplied by the municipally owned public utilities under its control and management.

g. The Board shall have the power to delegate, as necessary, the management and operation of the Utilities under its control.

h. The Board shall have the power to enter into all necessary working agreements with the officials and governing body of the City relative to services to be furnished to the municipality by the Board and transfers of surplus funds in the control of the Board to the General Fund of the City.

Section 3-3. Composition and Appointment.

The Board shall be composed of five (5) members who shall be residents and free holders of the City. The Mayor shall appoint all members of the Board, which appointments shall be approved and confirmed by the City Commission. Utility Board members shall serve with such compensation as may be established from time to time by the City Commission and reasonable expenses shall be paid when performing Utility Board business. All vacancies

occurring on the Board during the term of office shall be filled before the unexpired term in the manner original appointments are made.

The members of the Board shall be removable during their respective terms of office only under the provision of state law.

Section 3-4. Terms of Office.

The members of the Board shall be appointed for a five (5) year term of office, beginning in May of the year of their appointment. One (1) member shall be appointed at the first regular meeting of the City Commission in May of each year and shall hold office until his successor is appointed, qualified and approved by the City Commission.

Section 4

Officers

Section 4-1. Number.

The officers of the Board shall be a President, Vice President and a Secretary.

Section 4-2. Election and Term of Office.

The officers shall be elected annually during the month of May by and from the Board. Each officer shall hold office until the first meeting of the Board in May of the next succeeding year. A vacancy in any office may be filled by the Board for the unexpired portion of the term.

Section 4-3. Duties of President.

The President shall preside over all Board meetings and make committee or special assignment appointments. He may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the Board to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board or by these Bylaws to some other officer or agent of the Board, or shall be required by law to be otherwise signed or executed. The President shall be kept advised of the general affairs of the utility and monitor the implementation of Board resolutions and policies. He shall, in general, perform all duties as may be prescribed by the Board.

BYLAWS

Section 4-4. Duties of Vice President.

In the absence of the President, or in the event of his inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have the power of and be subject to all the restrictions upon the President. The Vice President also performs such other duties as from time to time may be assigned by the Board.

Section 4-5. Duties of Secretary.

The Secretary shall be responsible for keeping the minutes of the Board in books provided for that purpose and, in general, performing all duties incident to the office of Secretary and such other duties as from time to time may be assigned to such office by the Board.

Section 5

Meetings

Section 5-1. Regular meetings.

The regular meeting of the Board shall be held on the second Monday of each month at 1:00 o'clock P.M. in the Utilities Building in the City of Brookings, South Dakota.

Section 5-2. Special Meetings.

Special meetings may be called by the President or any two (2) Board members at any time, to consider only such matters as shall be mentioned in the call for such a meeting.

Special meetings for the sole purpose of approving claims for payment shall be scheduled every fourth Monday of the month with the exception of the Monday at which the regular monthly meeting is held, at 11:45 a.m. o'clock via teleconference.

Section 5-3. Quorum.

A quorum shall be constituted by a majority of the members of the Board. A majority shall be three (3) members. The act of a majority of the Board members present at a meeting at which a quorum is present shall be the act of the Board.

BYLAWS

Section 5-4. Voting.

All Board decisions requiring a vote shall be determined by a majority vote of Board members entitled to vote and present at the meeting.

Section 6

Committees

The President of the Board may from time to time appoint special committees comprised of Board members with the concurrence of the Board for special tasks in connection with the affairs of the utilities. Special committees shall be appointed to accomplish specific tasks and shall have no powers except those specifically conferred by action of the Board. At a committee meeting, a quorum shall be a majority of the number of committee members. Each committee meeting shall be recorded and minutes shall be submitted of the meeting to the Board. Upon completion of the committee assignment, the Board shall dissolve the committee.

Section 7

Delegation of Authority

Section 7-1. Manager.

Subdivision 1. The Board shall appoint a Manager solely on the basis of training, experience and administrative qualifications but who need not be a resident of the City at the time of his appointment. The Board shall delegate to him whatever powers ministerial or administrative they deem necessary for the proper administration of the utilities placed in his charge. The Manager shall be the Chief Executive Officer of the utilities and shall be responsible to the Board for the proper administration of all affairs relating to the utilities. The Board hereby delegates to the Manager general supervisory control over all departments and employees provided, that the Board may reverse, modify or otherwise revise action taken by the Manager.

Subdivision 2. The Manager shall have the following further powers and duties:

a. He shall exercise control over, supervise and coordinate the administration of the affairs of the utilities;

b. He shall serve as chief personnel officer of the utilities. The Manager shall be directly responsible to the Board for the proper administration of the various personnel policies, plans and procedures as authorized by the Board through the provisions contained herein, resolutions, and directives. With respect to employees classified as Department Managers, he shall provide to the Board a recommendation on all requests involving employment, dismissals, or other disciplinary action. Department Managers shall be responsible to the Manager for effectively performing the duties of the position to which they are assigned. With the exception of employees classified as Department Managers, he shall have the power to appoint and remove all officers and employees of the utilities and may authorize the head of any department or office responsible to him to appoint and remove subordinates in such department or office. He shall assume responsibly for or designate some other officer or employee to perform the duties of any office or position under his control which becomes vacant or which lacks administration due to the absence or disability of the incumbent;

c. He shall keep the Board fully advised as to the financial condition and needs of the utilities and prepare and submit to the Board the annual budget and be responsible for its administration after adoption;

d. He shall see that all terms and conditions imposed in favor of the utilities in any contract or franchise to which the utilities is a party are faithfully kept and performed;

e. He shall make such recommendations to the Board concerning the affairs of the utilities as may seem to him desirable;

f. He shall have the power to prescribe, revoke, suspend or amend such administrative rules and regulations as he shall deem necessary or expedient for the proper administration of the affairs of the utilities;

g. Unless specifically excluded by the Board, he shall be entitled to be present at all meetings of the Board and its committees and to prepare and introduce resolutions and take part in the discussion on all matters coming before the governing body and its committees, but shall have no vote;

BYLAWS

h. He shall have the power to execute documents needed in the course of business;

i. The Manager shall have such further powers and duties as may be prescribed by resolution.

Section 8

Finance

Section 8-1. Separate Fund.

A separate fund shall be established in the municipal treasury for each utility. Into this fund shall be paid all receipts from the utility operations and from it shall be paid all disbursements attributable to the utility operations.

Section 8-2. Claims Against Utilities.

The Board shall, in the same manner and the same extent as the City Commission, audit and allow claims against the public utilities fund as provided by law.

Section 8-3. Authorization of Contracts.

The Board may authorize any office or officers, agent or agents to enter into any contract or to execute and deliver any instrument in the name and on behalf of the Board, and such authority may be general or confined to specific instances.

Section 8-4. Report to City Finance Officer.

The board shall, immediately after the close of each fiscal year, and as often additionally as may be required by the City Commission, upon thirty (30) days written notice to the Secretary of the Board, file with the City Finance Officer a detailed report of all money and monies received and disbursed by said Board for the said fiscal year, in the case of an annual report, and since such last report was given in the case of any other report required by the City Commission.

BYLAWS

Section 8-5. Fiscal Year.

The fiscal year of the Board shall begin on the first day of January of each year and shall end on the 31st day of December of the same year.

Section 9

Parliamentary Authority

The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these Bylaws and any special rules of order the Board may adopt.

Section 10

Amendment of Bylaws

These Bylaws may be amended at any regular meeting of the Board by a majority of the entire Board.

Section 11

Indemnification

Subdivision 1.

The Board shall indemnify any person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Brookings Municipal Utilities, by reason of the fact that he or she is or was an employee, officer, board member or agent of Brookings Municipal Utilities, or is or was serving at the request of the Brookings Municipal Utilities as an employee, officer, board member or agent, against expenses, including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the Brookings Municipal Utilities, and with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgement, order, settlement, conviction or upon a plead of nolo contendere or its equivalent, does not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Brookings Municipal Utilities, and with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful.

BYLAWS

Subdivision 2.

The Board shall indemnify any person who was or is a party or is threatened to be made a part of any threatened, pending or completed action or suit by or in the right of the Brookings Municipal Utilities to procure a judgement in its favor by reason of the fact that he or she was an employee, officer, board member or agent of the Brookings Municipal Utilities, or is or was serving at the request of the Brookings Municipal Utilities as an employee, officer, board member, or agent, including attorney's fees, actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in good manner he or she reasonably believed to be in or not opposed to the best interests of the Brookings Municipal Utilities. No indemnification may be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the corporation unless and only to the extent that the Court in which such action or suit was brought shall determine upon application that, despite that adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which the Court deems proper.

PROCEDURE FOR ADOPTION

PROCEDURE FOR ADOPTION OF RULES AND REGULATIONS AND SEVERABILITY

The following procedure is hereby adopted and shall be complied with prior to the adoption, amendment or repeal of any rule or regulation contained herein, except an emergency rule:

(1) At any regular or special meeting of the Utility Board, a proposed rule or regulation may be introduced for a first reading.

(2) Upon the affirmative vote of a majority of the Board, the first reading shall be approved. If a majority of the members of the Board fail to approve the first reading, no further action shall be taken upon the rule or regulation.

(3) Upon Affirmative vote of a majority of the members of the Board, the secretary of the Board shall publish the text of the rule or regulation in a newspaper to be designated by the Board giving notice of a final hearing on adoption of such rule or regulation. Such publication shall be not less than 15 nor more than 45 days from the next special or regular meeting designated for a final reading on the adoption of such rule or regulation.

(4) At the hearing on the final reading, the Board shall afford all interested persons reasonable opportunity to submit data, opinions, or arguments, either orally or in writing, or both, at a hearing held for that purpose. The hearing may be continued from time to time as desired by the Board.

(5) After the completion of the hearing, the Board shall fully consider all written and oral submissions regarding the proposed rule or regulation. A proposed rule or regulation may be modified or amended at this time to include or exclude matters which were described in the notice of the hearing.

(6) After such modifications, if any, the Board shall take a final vote on the adoption or rejection of said rule or regulation, which, if approved by a majority of said Board shall become effective immediately.

(7) If the provisions of any article, section, paragraph or sentence of these rules and regulations shall for any reason be held to be unconstitutional or invalid by any court of competent jurisdiction, any provisions of the remaining articles, sections paragraphs and sentences shall nevertheless continue in full force and effect.

The above procedures shall not apply to any rule or regulation which, in the opinion of the Board, is an emergency. The determination of what rule or regulation constitutes an emergency shall be by unanimous vote of the Board, in which case such rule or regulation may be introduced, voted on and effective without the need for publication or hearing thereon except such hearing as may be granted the rule or regulation at the open meeting of the Board.

RATES AND CHARGES

ARTICLE IV

Authority and Cross Reference
Ordinance 715 – City of Brookings
S 35-33. Utility Board to Determine Rates.
S 35-31. Deposits.
S 35-34. Payment of Utility Account.
S 35-35. Remedies for Nonpayment.

Section 1

Electric Service

Section 1-1. Residential Electrical Service.

Availability: Available to individual residential customers for all domestic uses. In order to be eligible, the premises must be designated primarily for residential use and may not include separately metered garages or commercial operations. Service is subject to BMU established rules and regulations.

In multi-family dwelling units, where there are areas or items of common use, and the common area or item is electrically metered separately, the common meter shall be placed on the appropriate commercial rate. The individual dwelling units in the building will be placed on the residential rate. A family domestic dwelling in which four or less sleeping rooms are rented or available for rent is considered residential and the residential rate shall apply.

The following rates shall apply to each customer for each residence or apartment supplied and each residence or apartment shall have a separate meter. The electric energy furnished at the following rates may be used for lighting and household appliances, including electric motors used in connection therewith.

Type of Service

Single phase, 60 hertz, at available secondary voltages.

Monthly Billing Rate

Customer Charge	$21.00 per month
Energy Charge	
Basic (September-May)	$0.085 per KWh
*Summer (June-August)	$0.100 per KWh

Plus Applicable Taxes

Minimum Monthly Charge

The minimum monthly charge under the above rate shall be the Customer Charge.

*The Summer Energy Charge applies to all electric usage on bills dated June, July and August.

Section 1-2 Commercial Electric Services.

SMALL COMMERCIAL

Availability: Available to non-residential customers whose peak demand does not exceed 60 KW and is not served under the Large Commercial rate for all general purposes, single phase or 3 phase. Service is subject to BMU established rules and regulations.

All garages that are separately metered are not eligible for the residential rate and will be placed on the appropriate commercial rate.

Monthly Billing Rate

Customer Charge	$35.00 per month
Energy Charge	
Basic (September-May)	$0.096 per KWh
*Summer (June-August)	$0.111 per KWh
Plus Applicable Taxes	

Minimum Monthly Charge

The minimum monthly charge under the above rate shall be the Customer Charge.

*The Summer Energy Charge applies to all electric usage on bills dated June, July and August.

LARGE COMMERCIAL

Availability: Available to non-residential customers whose peak demand has exceeded 60 kW for two or more billing periods in a given calendar year. Customers must remain in this class for a minimum of 12 months. A customer whose billing demand has dropped below 60 kW for 12 consecutive months may request to be moved to the Small Commercial rate class. The customer would then remain in the Small Commercial rate class unless they again exceed 60kW for two billing periods. *Any non-residential customer whose peak demand exceeds 25 kW may request to move to the Large Commercial class.* Service is subject to BMU established rules and regulations.

Monthly Billing Rate

Customer Charge	$150.00 per month
Energy Charge	
All KWh's	$0.041 per KWh
Demand Charge	
Basic (September-May)	$15.90 per KW
*Summer (June-August)	$21.50 per KW
Plus Applicable Taxes	

The minimum bill for Large Commercial Customers shall be equal to 25% of the past 12 month's highest demand x $15.90 per KW. This minimum shall be charged only when the sum of the total energy charges and the total demand charges for the current month does not equal the calculated minimum.

The Utility shall charge the applicable commercial electric rate to trailer courts for their usage and BMU shall charge each trailer the current residential rate.

The Utility shall charge the applicable commercial electric rate to an apartment complex where the complex is served by one electric meter.

A family domestic dwelling in which more than four sleeping rooms are rented or available for rent, is considered non-domestic, and the applicable Commercial rate shall apply.

The power factor adjustment applies to any customer with a sole transformer capacity of 1000 KVA or greater and an average demand of 500 KW or more for the billing months of June, July and August of the previous year.

Billing Demand – The maximum fifteen (15) minute measured demand in the month.

Power Factor Adjustment – If the customer's power factor for the month (as determined by measurement) is less than 90% at the point of delivery, the demand will be increased by multiplying the metered demand by 90% and dividing by the average power factor expressed in percent as illustrated in the following formula:

$$\text{If PF} < 90\% \text{ then Adjusted Demand} = \frac{\text{Demand} \times 90\%}{\text{PF}}$$

Otherwise the Demand = Demand

*The Summer Demand Charge applies to all electric usage on bills dated June, July and August.

Section 1-3. Industrial Electric Service.

Availability: Available to commercial and industrial customers for all power and lighting through one set of meters at a single delivery point. Service will be delivered at primary distribution voltages. Additional voltage transformers shall be supplied and maintained by the customer. Service is subject to BMU established rules and regulations.

Customer Charge	$230.00 per month
Energy Charge	
All KWh's	$0.040 per KWh
Demand Charge	
Basic (September-May)	$15.60 per KW
*Summer (June-August)	$21.20 per KW
Plus Applicable Taxes	

The minimum bill for each Industrial Customer shall be equal to 50% of the past 12 months' highest demand x $-15.60. This minimum shall be charged only when the sum of the total energy charges and total demand charges for the current month does not equal the calculated minimum.

Billing Demand -- The maximum fifteen (15) minute measured demand in the month.

Power Factor Adjustment – If the customer's power factor for the month (as determined by measurement) is less than 95% at the point of delivery, the demand will be increased by multiplying the metered demand by 95% and dividing by the average power factor expressed in percent as illustrated in the following formula:

$$\text{If PF} < 95\% \text{ then Adjusted Demand} = \frac{\text{Demand} \times 95\%}{\text{PF}}$$

Otherwise the Demand = Demand

*The Summer Demand Charge applies to all electric usage on bills dated June, July and August.

Section 1-4. Time of Day Rate.

This rate is available to any customer with a load of 75 KW demand or greater who chooses to be on this rate. Under this rate, electrical consumption will be billed at a higher rate during peak hours and at a lower rate during off-peak hours. Peak hours are those hours of the day (Monday – Friday only) when the Utility load is above normal; off-peak hours are all remaining hours of the day (Sunday – Saturday) when the Utility load is below normal. For purposes of this rate, peak and off-peak hours shall be defined as follows:

Peak Hours – Winter (November – February) 7:00 a.m. – 7:00 p.m. 12 hrs.
Off-Peak Hours – Winter (November – February) 7:00 p.m. – 7:00 a.m. 12 hrs.

Peak Hours – Spring (March – May) 10:00 a.m. – 6:00 p.m. 8 hrs.
Off-Peak Hours – Spring (March – May) 6:00 p.m. – 10:00 a.m. 16 hrs.

Peak Hours - Summer (June – August) 10:00 a.m. – 7:00 p.m. 9 hrs.
Off-Peak Hours – Summer (June – August) 7:00 p.m. – 10:00 a.m. 15 hrs.

* Peak Hours – Fall (September – October) 10:00 a.m. – 6:00 p.m. – 8 hrs.
Off-Peak Hours – Fall (September – October) 6:00 p.m. – 10:00 a.m. – 16 hrs.

* During the Fall period, the off-peak hours shall begin at 5:00 p.m. on Friday.

The following rates shall be applicable to all electricity provided under the time of day rate.

Customer Charge: $ 150.00 per month.

	Peak	Off Peak
Energy Charge		
All KWh's	$0.057/KWh	$0.041/KWh
Demand Charge		
Basic (September-May)	$15.90/KW	$1.80/KW
**Summer (June-August)	$21.50/KW	$1.80/KW

**The Summer Energy charge applies to all electric usage on bills dated June, July and August.

Availability: To any customer with a load of 75 KW or greater who chooses to be on this rate.

Conditions: The customer must sign an agreement stating that he will be on this rate for at least 12 months. Should the customer request to be removed from this rate prior to expiration of the 12-month period, the customer shall be back billed for all usage at the rate he normally would have been on. Back billing shall be retroactive for the number of months the customer was on time of day rate not to exceed 12 months. This provision shall be waived if ownership should change within the 12-month period, and the new owner shall have the option of staying on the time of day rate or going back to the regular rate.

Section 1-5. Interruptible Rate.

This rate is available to any customer with a load of 50 KW demand or greater who chooses to be on this rate. Under this rate, the customer must agree to have their electric service disconnected when the Utility's electric system is approaching or in danger of reaching a peak condition. The Utility will give 15-minute warning before disconnecting load. Fifteen minutes after the warning, the Utility will automatically disconnect all customer load which is on the interruptible rate.

The following rates shall be applicable to all electricity provided under the interruptible rate:

Customer Charge: $ 230.00 per month.

Energy Charge:	
All KWh's	$.0410/KWh
Demand Charge	
KW	$10.00/KW

Availability: To any customer with a load of 50 KW or greater who chooses to be on this rate.

Load Factor Adjustment: If the customer's load factor for the month (as determined by measurement) is less than 55%, the billing rate will be increased by multiplying the energy and demand rates by 55% and dividing by the average monthly load factor expressed in percent as illustrated in the following formula.

$$\text{If LF} < 55\% \text{ then Adjusted Energy \& Demand Billing Rate} = \frac{\text{Billing Rate} \times 55\%}{\text{LF}}$$

Notwithstanding the above the maximum applicable energy rate shall be $.096/KWh and demand rate shall be $21.50/KW.

Otherwise the Billing Rate = Billing Rate.

Conditions: The customer must sign an agreement stating that he will be on this rate for at least 12 months. Should the customer request to be removed from this rate prior to expiration of the 12-month period, the customer shall be back billed for all usage at the rate he normally would have been on. Back billing shall be retroactive for the number of months the customer was on interruptible rate not to exceed 12 months. This provision shall be waived if ownership should change within the 12-month period, and the new owner shall have the option of staying on the interruptible rate or going back to the regular rate.

Section 1-6. Street Lights.

The following rate shall be charged for all electricity provided under the street light rate:

All KWh's	$.110/KWh
Customer Charge	$8.45/Light

Availability: Available to the City of Brookings for street light use.

Section 1-7. Economic Development Rate Discount Program

A rate discount is available to new qualifying commercial customers or existing customers that expand facilities in accordance with the Missouri River Energy Services (MRES) Economic Development Rate Discount Program (Program) which will become effective January 1, 2019. The customer must meet documented criteria in order to become eligible for the Program.

Section 1-8 Co-generation, Small Power Production and Qualifying Facilities (QF)

The Public Utility Regulatory Policies Act (PURP A) requires that electric utilities must purchase power produced from Qualifying Facilities (QF's) at their avoided cost. Brookings Municipal Utilities designates and reaffirms that its avoided cost shall be Missouri River Energy Services' (MRES) avoided cost and the PURP A rate shall be calculated by MRES on an annual basis.

BMU's PURPA Avoided Cost Rate = (MRES PURPA Rate) X (Loss Adjustment)

The standard loss adjustment is 3.0% but may be adjusted as necessary on a case by case basis.

The interconnection process, associated fees, and rules of compliance are outlined in the "Distribution Generation Workbook"

Availability: In order to be eligible for this program, the requestion party must comply with all applicable laws and regulations as well as any requirements of MRES and Brookings Municipal Utilities. All applicable Power Purchase Agreement contracts much be signed and executed prior to participating in this program.

Section 1-9 Miscellaneous Charges

Customers who opt out of automated meter reading and request manual readings will be charged $25 per month. Additional costs may apply for equipment repairs or replacements.

In addition to the above, the following charges apply to commercial services with one meter.

Metering Charges

Single Metered Services 200 AMPS or under

Single Phase 120 / 240 ---------- $70.00
Single Phase 120 / 208 ---------- $70.00
Three Phase Delta---------- $100.00
Three Phase Wye---------- $100.00

Single Metered Services Over 200 AMPS

Single Phase 120 / 240 ---------- $200.00
Single Phase 120 / 208 ---------- $200.00
Three Phase Delta (120 / 240) ---------- $450.00
Three Phase Wye (120 / 208) ---------- $450.00

For service with more than one meter, all metering equipment shall be installed and labeled in accordance with Utility requirements. The labels shall be mechanically fastened to the non-removable portion of the meter socket.

RATES AND CHARGES

WASTEWATER SYSTEM

Section 2-1. Cost of Connecting Building Sewers Into Wastewater Lines Installed by the Utility.

Any person desiring to connect building sewers into any wastewater line installed by the Utility shall make payment of $9.98 per front footage for such length of the property as he or she owns abutting the project.

Section 2-2. Wastewater -- Residential.

A residential user shall be defined as a domestic dwelling unit such as houses, mobile homes, and permanent multi-family dwellings with a separate water meter.

Wastewater will be computed at the rate of 100 cubic feet of water used in the billing cycles ending in November, December, January and February plus a customer charge based on the schedule below. The average monthly bill of these four billing cycles will determine the monthly wastewater charge for the following eight cycles.

Monthly Billing Rate

Customer Charge	$17.90 per month
Usage per 100 cu. ft. of water used charged	$5.379/100 cu. ft.

Section 2-3. Wastewater – Commercial.

A Commercial user shall include any facility operating as a business, either profit or nonprofit, and all publicly owned facilities, except consumers listed under residential, industrial, institutional, wholesale metered flow, and food service industry.

Wastewater will be computed by one of the following two methods, at the Utilities option: 1) at the rate of 100 cubic feet of water used, plus a customer charge based on the

schedule below for each month of the year, or 2) based on metered wastewater flow at the rate of 100 cubic feet of wastewater, plus a customer charge based on the schedule below for each month of the year.

Monthly Billing Rate

Customer Charge	$24.00 per month
Usage per 100 cu. ft. of water used / or wastewater flow	$5.379/100 cu. ft.

Section 2-4. Wastewater – Industrial

An Industrial user is an entity permitted by Brookings Municipal Utilities Industrial Waste Pretreatment Program.

When an Industrial (Pretreatment) permit is required, the applicable fees shall be as follows:

Wastewater Contribution Permit Application Fee	$35.00
Annual Wastewater Contribution Permit Fee	$ 110.00

Wastewater will be computed by one of the following two methods, at the Utilities option: 1) at the rate of 100 cubic feet of water used, plus a customer charge based on the schedule below for each month of the year, or 2) based on metered wastewater flow at the rate of 100 cubic feet of wastewater, plus a customer charge based on the schedule below for each month of the year.

Monthly Billing Rate

Customer Charge	$250.00 per month
Usage per 100 cu. ft. of water used / or wastewater flow	$5.379/100 cu. ft.

Section 2-5. Wastewater – Institutional

An Institutional user shall include an entity of local, state, or federal government, including colleges, and universities, that discharge to the wastewater collection system through one or more master connections as opposed to individual connections for each building. An Institutional user may operate its own private collection system.

Wastewater will be computed based on metered wastewater flow at the rate of 100 cubic feet of wastewater, plus a customer charge based on the schedule below for each month of the year.

Monthly Billing Rate

Customer Charge	$2,000.00 per month
Usage per 100 cu. ft. wastewater flow	$5.379/100 cu. ft.

The following usage volume discount will apply:

20% usage volume discount

Section 2-6. Wastewater – Wholesale Metered Flow

A Wholesale user shall include a customer(s) that discharges to the wastewater system through one or more master locations. A wholesale entity operates its own collection system to service its own customers. A contract for services will be established for wastewater services on a case by case basis.

Wastewater will be based on metered wastewater flow at the rate of 100 cubic feet of wastewater, plus a customer charge based on the schedule below for each month of the year.

Monthly Billing Rate

Customer Charge	
North Brookings Sanitary District	$ 30.00 per month
Usage per 100 cu. ft. of wastewater flow	$5.379/100 cu. ft.

Section 2-7. Wastewater – Food Service Industry

A Food Service Industry user includes any business that prepares and serves food and beverages and is required by either Plumbing Code or BMU to have a grease interceptor.

Wastewater will be based at the rate of 100 cubic feet of water used, plus a customer charge based on the schedule below for each month of the year,

Monthly Billing Rate

Customer Charge	$45.00 per month
Usage per 100 cu. ft. of water used / or wastewater flow	$5.379/100 cu. Ft

The fee for a grease trap inspection shall be $18.00 for an initial inspection fee (not to exceed a maximum of one inspection per month) and if necessary, a re-inspection fee of $51.00 if the initial inspection is non-compliant. The re-inspection will be within 10 business days of the non-compliant initial inspection.

Section 2-8. Wastewater Taps

Annual rates for wastewater taps will be published annually and effective March 15th of each year.

Section 2-9. BOD/TSS/TKN Surcharge Fee

The surcharge fee shall be

	Tier 1	Tier 2
BOD	>200 – 1,000 mg/l	>1,000 mg/l
	$0.43 / lb	$0.61 / lb
TSS	>250 – 1,250 mg/l	>1,250 mg/l
	$0.40 / lb	$0.80 / lb

TKN	>30 – 60 mg/l $1.60 / lb	>60 mg/l $2.00 / lb

Section 2-10. Hauled Wastes Fees

When a Hauled Waste Permit is required, the applicable fees shall be as follows:

Hauled Waste Permit Application Fee	$35.00
Annual Hauled Waste Permit Fee	$ 110.00

The fee for domestic septage and portable toilet hauled waste shall be $25.00/1,000 gallons. Fees for other types of acceptable hauled waste will be established on a case by case basis.

WATER SYSTEM

Section 3

Section 3-1. Cost of Connecting Water Service Lines Into Water Main Lines Installed by the Utility.

Any person desiring to connect water services lines into any water main installed by the Utility shall make payment of $8.28 per front footage for such length of the property as he or she owns abutting the project.

Section 3-2. Residential

A residential user shall be defined as a domestic dwelling unit such as houses, mobile homes, and permanent multi-family dwellings with a separate water meter.

The owner or occupant of each residential premise to which water is supplied by Brookings Municipal Utilities shall pay a service charge per meter dependent upon the size of meter as set forth below.

Service Charges:

Meter Size	Monthly Service Charges
5/8"x3/4", 3/4" or 1"	$22.50
1 ½"	$71.00
2"	$105.00

Service charges for all meters larger than 2" shall be made according to the Commercial Service Charge Schedule. Service charges will be determined at the time application is made.

Usage Charge:

The following rates shall be applicable to all water provided during the monthly billing period:

All Cubic Feet	$.289 per 100 cu. ft.
Surcharge 2023/2024 Bond Issues	$3.850/100 cu. Ft. water used

The following additional conditions shall be applicable to all water provided during the billing periods ending in June, July and August:

Each customer will be assigned a Summer Peak Usage Adjustment Level (SPUAL). The SPUAL will be set at an amount equal to 300% of the greater of the Winter Residential City Monthly Average (WRCMA) or the average of the customer's most recent usage for the billing cycles ending in November, December, January and February at the customer's current residence. The WRCMA will be calculated each year (rounded up to the nearest tenth) after the billing cycle ending in February. SPUAL usage data from the most recent previous three year's billing cycles will be used in the calculation (12 bills in all).

Any customer who does not have water usage history with the utility at the premises at which he or she has requested service shall be assigned the WRCMA for purposes of computing their SPUAL.

All water consumed above the assigned SPUAL on bills dated June, July and August will be provided at the rate of two times the published rate per 100 cu. ft. of water.

Irrigation water rates are determined by multiplying the applicable consumption rate and service charge by a factor of 1.50. The service charge shall be $7.00 per month from November through April for irrigation meters left in place during these billing periods.

A $50.00 fee shall be applied to all reinstalled irrigation meters.

Rural water rates are determined by multiplying the applicable consumption rate and service charge by a factor of 1.10.

Rural water rates for customers connected to the Aurora distribution line are determined by multiplying the applicable consumption rate and service charge by a factor of 1.10.

Section 3-3. Water – Commercial/Industrial/Institutional/Food Service Industry

A Commercial user shall include any facility operating as a business, either profit or nonprofit, and all publicly owned facilities, except consumers listed under Residential, Industrial, Institutional, and Food Service Industry.

An Industrial user is an entity permitted by Brookings Municipal Utilities Industrial Waste Pretreatment Program.

An Institutional user shall include an entity of local, state, or federal government, including colleges, and universities, that discharge to the wastewater collection system through one or more master connections as opposed to individual connections for each building. An Institutional user may operate its own private collection system.

A Food Service Industry user includes any business that prepares and serves food and beverages and is required by either Plumbing Code or BMU to have a grease interceptor.

The owner or occupant of each non-residential premise to which water is supplied by Brookings Municipal Utilities shall pay a service charge per meter dependent upon the size of meter as set forth below.

Service Charges:

Meter Size	Monthly Service Charges
5/8 ”x3/4”, ¾ ” or 1 ”	$ 22.50
1 ½ ”	$ 71.00
2 ”	$ 105.00
3 ”	$ 204.00
4 ”	$ 312.00
6 ”	$ 606.00
8 ”	$1,036.00
10 ”	$1,474.00

Service charges will be determined at the time application is made.

Usage Charge:

The following rates shall be applicable to all water provided during the monthly billing period:

All Cubic Feet	$.289 per 100 cu. ft.
Surcharge 2023/2024 Bond Issues	$3.85/100 cu.ft. water used

The following additional conditions shall be applicable to all water provided during the billing periods ending in June, Julyand August:

Each customer will be assigned a Summer Peak Usage Adjustment Level (SPUAL). The SPUAL will be set at an amount equal to 300% of the greater of the Winter City Monthly Average (WCMA) or the average of the customer's most recent usage for the billing cycles ending in November, December, January and February at the customer's current premise. The WCMA will be calculated each year (rounded up to the nearest tenth) after the billing cycle ending in February. SPUAL usage data from the most recent previous three year's billing cycles be used in the calculations (12 bills in all).

Any customer who does not have water usage history with the utility at the premises at which he or she has requested service shall not be assigned a SPUAL until after they have established a three month billing history.

All water consumed above the assigned SPUAL on bills dated June, July and August will be provided at the rate of two times the published rate per 100 cu. ft. of water.

Irrigation water rates are determined by multiplying the applicable consumption rate and service charge by a factor of 1.50. The service charge shall be $7.00 per month from November through April for irrigation meters left in place during these billing periods.

A $50.00 fee shall be applied to all reinstalled irrigation meters.

Rural water rates are determined by multiplying the applicable consumption rate and service charge by a factor of 1.10.

Rural water rates for customers connected to the Aurora distribution line are determined by multiplying the applicable consumption rate and service charge by a factor of 1.10.

Section 3-3.1. Water – Purchased Rural Water Customers

Water rates assigned to the customers purchased from Brookings Deuel Rural Water System (BDRWS) through the BDRWS/BMU Agreement signed September 26, 2023, shall follow the same customer rules as identified in Section 3.2 – Water – Residential or Section 3.3 – Water - Commercial/Industrial/Institutional with the exception rates listed below:

Meter Size	Monthly Service Charges
3/4" or 1"	$44.00

Usage Charge shall be:

All Cubic Feet	$.289/100 per cu. ft.
Surcharge 2023/2024 Bond Issues	$3.85/100 cu. ft. water used

The exception rates will apply until the purchase price without interest from the BDRWS/BMU Agreement is reduced to zero by the difference between the exception rates and published BMU water rates.

Section 3-4. Other Water-Related Charges

(a) The City of Brookings and all other public corporations shall pay at the same rate as private consumers for water consumed in public buildings, and the City of Brookings shall also pay the sum of $115.00 per year for each hydrant maintained by the Utility, which sum is found and determined to be a reasonable charge for the use and availability of water service for fire protection and maintenance of streets, parks, and other public places.

(b) If the owner of a premise requests that a water meter be removed from the premise, no charge shall be made. To have a water meter reinstalled at this premise, the owner shall pay a reinstallation charge.

(c) If the owner or resident of a premise allows the water meter to freeze, the meter will be replaced with a new meter at the owner's cost. Annual rates for meters and related charges will be published annually and effective March 15th of each year based on that year's meter cost.

Section 3-5 Miscellaneous Charges

Customers who opt out of automated meter reading and request manual readings will be charged $25 per month. Additional costs may apply for equipment repairs or replacements.

Section 4

Engineering Fees

Section 4-1. Engineering Fees - - Wastewater.

Any person or persons making application for the extension of a waste water line agree as a part of such application to pay to the Brookings Municipal Utilities a fee or charge of $ .80 per lineal foot for the full extension of such proposed trunk sewer. This fee is to be paid only if engineering is performed by the Utility. The payment of such charge or fee shall be made upon the approval of said application and before such connection is made.

RATES AND CHARGES

Section 4-2. Engineering Fees - - Water.

Any person or persons making application for the extension of a water main agree as a part of such application to pay to the Brookings Municipal Utilities a fee or charge of $ .60 per lineal foot for the full length of such proposed water main. This fee is to be paid only if engineering is performed by the Brookings Municipal Utilities. The payment of such charge or fee shall be made upon the approval of said application and before such connection is made.

Section 5

Credit and Deposit Policy

Section 5-1. Credit Policy

To establish or reestablish satisfactory credit, Brookings Municipal Utility may request that an applicant for service or existing applicant pay a deposit and any outstanding balance, if owed.

Payment Information.

Bills shall be mailed as close to the 10th of each month as possible. Bills shall become delinquent on the 25th day of the month. Failure to receive a bill shall not exempt the customer from prompt payment of his or her account.

Nondiscriminatory credit policy required.

The Brookings Municipal Utility shall fairly, and without discrimination, administer a credit policy that is easily understandable and that extends Electric, Water and Wastewater service to as many applicants as possible.

A credit value will be established and maintained for each account based on a numeric scoring system of points accumulated based on account activity. New accounts will be established with a score of 0. Activity on accounts will change that score as follows:

Reminder notice	+ 1 point
Disconnect notice	+ 1 point
Returned Payment	+ 1 point

Tax exempt or government agencies paying on a monthly basis and requiring no treatment will be established as exempt from collection treatment, and, therefore, have no credit value assigned to their accounts.

Establishment of credit for applicants for new service or return of service.

The Brookings Municipal Utility shall designate a credit of 0 to all new applicants for service.

The Brookings Municipal Utility shall determine the credit standing of an applicant who has had prior service with the Brookings Municipal Utility by referring to past payment history and establishing the credit score accordingly.

Establishment or re-establishment of credit for a current customer

Customers account activity will be reviewed monthly, looking at the most recent twelve month period, with credit scores increased or decreased based on the activity since the previous review.

Reminder Notices

Reminder Notices shall be sent 5-7 days after the 25th, to customers with a past-due balance over $50.00.

Reminder Notices shall contain the following information:

1. The amount past due.

2. Who they can contact if they have questions about the account.

Disconnect Notices

Disconnect Notices shall be sent 5-7 days after the Reminder notice, to customers with a remaining past-due balance over $100.00.

Disconnect Notices shall contain the following information:

1. The particular grounds upon which the proposed disconnection is based.

2. The Utility's intention to discontinue service on <a stated date> unless the customer takes corrective action.

3. The corrective action which the customer must take to avoid disconnection.

4. The charges required to reconnect if disconnected.

5. Notice of right to appeal and where to appeal.

Disconnect Notices may be sent by regular or certified mail at the discretion of the Collection Department. Also, a telephone call may be made instead of a written notice at the discretion of the Collection Department.

Section 5-2. Deposit Policy.

Returning or Existing Customers

A deposit may be required from Residential customers in an amount equal to two months' average billing in the event that:

1. An unpaid balance remains on record for prior service with Brookings Municipal Utilities; or

2. Records indicate a poor credit history for prior service with Brookings Municipal Utilities.

An additional deposit amount may be requested to bring the total deposit held equal to two month's average billing (if that average has increased during the past nine months).

If a current customer moves from one location to another in the Utility service area, and has had a deposit on account, the Utility may require a deposit for service at their new location.

Commercial

A deposit will be required in an amount equal to two months' average billing for the service address. Commercial is defined as non-residential customers.

1. If transfer of ownership of an existing business occurs, the deposit will be calculated on prior owner's usage history.

2. If a new business opens, Brookings Municipal Utilities will calculate deposit on any available data, include similar-type businesses.

3. An unpaid balance remains on record for prior service with Brookings Municipal Utilities; or

4. An unpaid balance remained on record for a prior service with BMU after the final billing was rendered and due; or

5. Records indicate a poor credit history for prior service with BMU.

Refund Upon Disconnection

After disconnection of service, the Brookings Municipal Utilities will promptly and automatically apply the deposit amount to the customer's final bill, and refund the balance of the customer's deposit or send a bill for the remaining unpaid balance due for service.

If a customer moves from one residence to another within the service area of the Utility, any deposit on the account will be applied to the balance due, and:

- a refund check will be issued for a credit balance, or
- a credit balance may be transferred to their new account if requested, or
- a bill will be sent for a remaining balance due.

If the customer requests, an existing deposit may be transferred *in full* to the customer's new account. The amount of the deposit required at their new residence will be calculated, with additional deposit monies collected if needed.

Refund During Service

When the customer has not been delinquent in payment of bills for service for twelve (12) consecutive months, the Utility will promptly and automatically refund the deposit to the customer in the form of a deposit refund check or a credit to the customer's bill.

Section 5-3. Refusal of Utility Service.

Reasons for refusal - - Utility service may be refused for one or more of the following reasons:

1. The customer is indebted to the Brookings Utility for past bills incurred and refuses to liquidate the debt for the same class of service;

2. An applicant refuses to pay a reasonable deposit, advance payment, or installation charge;

3. An applicant, although he is not personally liable to the utility, is attempting to return service to an indebted household and no arrangements have been made to liquidate the debt of that household;

4. An applicant is unwilling to provide their Date of Birth, and correct information about at least one of the following:
   (a) Social Security Number
   (b) Driver's License/State Issued ID number
   (c) Passport Number

An applicant is in violation of state statutes or utility rules concerning evasion of payment, use of service for unlawful purposes, interference with or destruction of service facilities, or violation of service regulations.

Section 5-4. Disconnection of Utility Service.

Indiscriminate disconnection or reconnection prohibited. The Utility Company will not make indiscriminatory disconnections or reconnections.

Nonpayment of past due bill is reason for disconnection. Following is a list of conditions, all of which must be satisfied before a customer may be disconnected for nonpayment of a bill:

1. Only the class of service for which payment is past due can be disconnected.

2. The customer has received a payment period of not less than 15 days from bill transmittal date to due date and an additional notice period of not less than 5 days during which the particular bill has been owing. The payment period may be shortened if the customer has been properly placed on an early payments list. The payment period may also be waived in cases of customer fraud or illegal use or when it is clear that the customer has left or is preparing to leave without paying a past due bill.

3. The customer has received written notice of the utility's intention to disconnect as stated in Article IV Section 5-1 "Credit Policy".

4. The customer, especially if he or she claims inability to pay or extenuating circumstances, is unwilling to enter into a reasonable agreement with the utility to liquidate the debt.

5. There is no bona fide and just dispute surrounding the bill. A bona fide and just dispute is one that is appealed to the Brookings Utility Board. A dispute shall not be defined as bona-fide and just if a customer does not pay the undisputed portion.

Other reasons for disconnection. A utility may disconnect a customer after reasonable notice for any of the following:

1. Violation of Article IV Section 5-3 "Reasons for Refusal - - Use" numbers (3) and (5);

2. Failure to comply with an agreement to liquidate a continuing debt as described in Article IV Section 5-4 "Nonpayment of past due bills as reason for disconnection" number (4);

3. Failure to pay an increased deposit or a deposit as described in Article IV Section 5-2 "Deposit Policy";

4. Failure to grant the utility access to read meters, inspect the utility's facilities and conduct investigations for hazardous conditions.

The notice of disconnection. The notice of disconnection sent to the customer shall contain a specific explanation as explained in Article IV Section 5-1 "Credit Policy".

The disconnecting act. Service shall not be disconnected on any Friday, Saturday, Sunday, legal holiday, or at any time when the utility's business offices are not open to the public.

Last minute payments. The customer shall have the right to pay any delinquent bill at any time prior to disconnection in order to preserve uninterrupted service. The utility representative who enters the customer's premises to disconnect does not have the authority to receive payments or make payment arrangements. The representative will refer the customer to office staff with that authority, and service may not be disconnected with their approval.

Reconnection of Service. In the event service has been disconnected for valid cause, Brookings Utilities will charge a $75.00, plus tax, reconnect fee. If service is reconnected during non-duty hours, an additional charge of $50.00, plus tax, will apply.

Record to be kept. A record of all service disconnections which continue to have bad credit with the Utility Company made under the provisions of Article IV Section 5-4 "Nonpayment of past due bill as reason for disconnection" shall be kept by the Utility Company for a period of not less than one year.

Landlord and tenant rule. If service is provided at an address different from the mailing address of the bill or it the utility has reason to know that a landlord and tenant relationship exists and the landlord, as a customer of the service, the utility may not disconnect service until the following actions have been taken:

1. The utility, after providing notice as required in this chapter, shall offer the tenant the opportunity to apply for service in his or her own name if it is economically feasible to provide such service. If the tenant declines to apply for service, or is refused service under Section 5-3 of this chapter, the utility may disconnect service pursuant to this chapter;

2. A utility shall not attempt to recover from a tenant, or condition service to a tenant upon, the payment of any outstanding bill or other charges of the landlord.

3. Likewise, if a tenant does not, or cannot, put service in their own name, and the landlord chooses to, the landlord may put services into their own name. The landlord is then fully and solely responsible for the payment of that account.

4. The utility shall not attempt to recover from a landlord, or condition service to a landlord, the payment of any unpaid bill or other charges of the tenant.

Residential winter disconnection. Notwithstanding the provisions of Article IV Section 5-4 "Nonpayment of past due bills as reason for disconnection" and "Other reasons for disconnection", a utility may not disconnect residential service from November 1 to March 31 without adding to the time periods of subdivision "Nonpayment of past due bills as reason for disconnection" number (3) an additional 30 days before disconnecting that service. The utility shall give an additional 30 days until disconnection.

In the event of unexpected circumstances, the General Manager/Executive Vice President may recommend to the Utility Board that this provision be temporarily implemented for a stated period of time. The intention will not be to forgive any customer debts, but to allow additional time to pay bills.

Residential medical condition. Notwithstanding the provisions of Article IV Section 5-4 "Nonpayment of past due bills as reason for disconnection" and "Other reasons for disconnection", a utility shall postpone the disconnection of utility service to a residential customer for 30 days from the date of a physician's certificate or a notice from a public health or social service official which states that disconnection of service will aggravate an existing medical condition of the customer, a member of his family, or other permanent resident of the premises where service is provided. Such extensions are limited to a single 30-day period.

Section 5-5. Adjustments of Overbilling or Underbilling Charges.

When a metering or billing error occurs and the error results in overbilling for usage of electric, water or wastewater, the customer shall be reimbursed the full amount that said customer was overbilled. In determining the amount overbilled, calculations will start from the proven date the error first occurred to the date that the error was corrected using the rates in effect at the time the error occurred. No interest will be paid on monies owed to customers for overbilling.

When a metering or billing error occurs and the error results in underbilling for usage of electricity, water or wastewater, the customer shall pay Brookings Municipal Utilities the amount that said customer was underbilled. In determining the amount underbilled, calculations will start from the proven date the error first occurred to the date that the error was corrected, not to exceed three years using the cost of purchased power, the water rate, or the wastewater rate in effect at the time the error occurred. The customer shall be allowed to pay the amount underbilled over the same time period as the error occurred, provided such time period does not exceed three years. No interest will be collected on monies owed to Brookings Municipal Utilities for underbilling.

If, in the opinion of the Utility, the circumstances of a situation warrant an alternate resolution, the Utility may propose a solution different than the standard described above.

This section shall not apply in cases of fraud, abuse or when other proven violations of these Rules and Regulations occur.

Section 6

Section 6. Definitions.

The following words and phrases used in this Article IV shall have the following meaning:

Billing Cycle shall mean the period of time from one billing date to the next.
Billing Date shall mean the date billing computation is done and the individual accounts are updated with the amount due.
Billing Period shall mean the period of time from one meter-reading date to the next.

ARTICLE V

RULES AND REGULATIONS GOVERNING CONNECTIONS TO AND THE USE OF THE BROOKINGS ELECTRIC SYSTEM

Section 1

Authority and Purpose

These rules and regulations are adopted by the Brookings Municipal Utilities Board, and are declared to be necessary for the efficient, economic and safe operation of the municipal; electric system. They are intended to prevent losses of life and property, and the inconveniences of interrupted power through the regulation and control of connections to and the use of the system and may be amended by the Utility Board pursuant to State and/or Federal Statutes.

Section 2

General Provisions

Section 2-1. Definitions.

Unless the context specifically indicates otherwise, the meaning of the terms used in these Rules and Regulations shall be as defined in the current National Electric Code, * as adopted by the Brookings, South Dakota Municipal Utilities Board. Whenever the word "Municipality" is used in the South Dakota State and/or National Electrical Code it shall be held to mean the City of Brookings.

Section 2-2. Conflicts.

In the event of any conflict between the provisions of the code adopted by this Article and applicable provisions of these Rules and Regulations, state law or city ordinance, the provision of these Rules and Regulations, state law or city ordinance shall prevail and be controlling.

*See Appendix A.

ELECTRIC SYSTEM

Section 3

Licenses

Section 3-1. License Required.

It shall be unlawful for any person, firm, or corporation to engage in the business of installing any electrical wiring or construct or install electrical apparatus or machinery, in any structure or upon any premises, expect as provided specifically herein, without first securing a license to do so under the provisions of the Article. The license shall be posted in a conspicuous place in the place of business (in the City of Brookings) of the licensee. No electrical license shall be transferable.

Section 4

Electrical Lights and Power

Section 4-1. Inspections.

All electric wiring and apparatus installed, constructed or done within the City shall be inspected by a licensed representative of the state of South Dakota or by any Utility officer or employee appointed for such purpose and no such wiring or apparatus shall be installed or constructed without such inspection.

Should any conditions be discovered by such inspections either by the State inspector or by the Utility inspector which do not conform to the electric code adopted by this regulation, the electrical services maybe disconnected without notice until such conditions are remedied.

Section 4-2. Connecting with Current.

No connections shall be made until a certificate is executed by an electrician showing compliance with the current South Dakota and/or National Electrical Code.

Section 4-3. Disconnecting with Current.

Such inspector shall have the power and it shall be his duty to disconnect any electric wiring or apparatus in any building or upon any premises in the City when at any time whatever, in his judgment it is defectively installed, constructed, or done, or has become unsafe or insecure and the connection shall not again be made until the wiring and apparatus has been approved by such inspector.

ELECTRIC SYSTEM

Section 4-4. Revoke License.

Whenever it shall appear that any person to whom a license had been issued is unfit or is negligent or careless in the installing of electric wiring or apparatus the City Commission, upon recommendation of the utility manager, shall have full authority to cancel and revoke said license.

Section 4-5. Application for Service.

Any customer who desires to buy electric service from the Utility shall apply to the Brookings Utilities Office and shall state the location of the desired service, the nature of the service desired, and the billing address.

Section 4-6. Service Connect Charges.

An initial service connection or reconnect charge of $20.00 shall be paid by all customers upon first billing. If service is connected or reconnected after non-duty hours, the charge shall be $50.00.

Section 4-7. Vacant Rental Property.

If a property owner requires that electricity be left connected when a rental property is vacated and service is removed from the tenant's name, the service will be placed in the owner's name and the $20.00 charge will apply. If no electric service is desired during the vacant period, the meter will be disconnected and no charge will apply.

Section 4-8. Electric Department Vehicle Charges.

Charges for electrical department vehicles and equipment shall be made in accordance with a rate schedule determined annually by the Utility by examining local charges for similar vehicles and equipment.

Section 4-9. Service Calls.

A service charge shall be made for all service calls that are made other than the normal work week. A charge of $75.00 per call will be made for customer owned equipment or wiring. (Normal work week hour are 8:00 a.m. to 5:00 p.m. Monday through Friday.) City holidays are not considered normal working hours. If a truck is on the job for over six hours, the cost per hour is reduced to 2/3 of cost.

ELECTRIC SYSTEM

Section 4-10. Builders Hookup.

Temporary construction power hookup is offered as a service by Brookings Municipal Utilities for the purpose of assisting with the construction of new commercial and residential buildings. Temporary power connection is available where 120/240 volt service exists.

All Temporary Services shall be located within 10 feet of a suitable electrical source. The temporary service shall be compliant with the State of South Dakota Electrical Code.

1. The meter socket shall be wired for 120/240 volts.
2. Temporary shall be installed vertical and stable.
3. Temporary Services shall require an Electrical Affidavit.

The fee for connecting a contractor provided Temporary Service shall be $100.00. BMU personnel reserve the right to not connect a Temporary Service pedestal that is improperly wired or incorporates faulty equipment.

The energy measured by the electric meter shall be billed to the customer of record, (i.e. contractor, homeowner, or electrician), per the applicable rate.

For construction sites where BMU 120/240 volt services is not preexisting, contact BMU to review the costs involved with providing temporary facilities. The customer will be charged time and material. Three-phase builders hookups are also provided at time and material charges.

Section 4-11. Electric Underground Service.

All service to newly constructed buildings shall be underground. Any person desiring underground installation of the electrical service wires to a premise shall apply in writing to the Utilities Office and shall state the location of the desired underground service and the size and voltage of the expected service. Said application must be approved by the Brookings Municipal Utilities who shall endorse approval thereon. Before such installation shall be made installation fee shall be paid to the Utilities Office in accordance with the following schedule.

ELECTRIC SYSTEM

Installation Charges

In the event Brookings Municipal Utilities crews cannot install the underground service because the depth of frost prevents the installation crew from using hand equipment to expose existing utilities, or the Utilities equipment cannot cut a trench thru the frost, the contractor/owner can provide for the ditch to be dug at the owner's expense. The trench will be inspected for depth by the Utilities installation crew. BMU will then install the conductor to the home or business in the trench provided, but all service fees remain the same. Note the proper cable bedding must be provided for trenches per BMU Installation Guidelines.

Residential

Residential Service up to 200 AMP ---------- $300.00
Residential Service Over 200 AMP, does not exceed 400 AMP---------- $400.00

Commercial

Commercial Service 1-Phase----------$ 600.00
Commercial Service 3-Phase----------$1,500.00

In cases where a customer requests service to a location that requires BMU to install primary distribution equipment, the customer may be required to participate in the cost of such extension over and above the standard service fee when the anticipated revenue does not justify the expense of the distribution extension. This contribution-in-aid-of-construction (CIAC) will be handled on a case-by-case basis.

ELECTRIC SYSTEM

In addition to the above, the following charges apply to commercial services with one meter.

Metering Charges

Single Metered Services 200 AMPS or under

Single Phase 120 / 240 ---------- $70.00
Single Phase 120 / 208 ---------- $70.00
Three Phase Delta---------- $100.00
Three Phase Wye---------- $100.00

Single Metered Services Over 200 AMPS

Single Phase 120 / 240 ---------- $200.00
Single Phase 120 / 208 ---------- $200.00
Three Phase Delta (120 / 240) ---------- $450.00
Three Phase Wye (120 / 208) ---------- $450.00

For service with more than one meter, all metering equipment shall be installed and labeled in accordance with Utility requirements. The labels shall be mechanically fastened to the non-removable portion of the meter socket.

Section 4-12. Security Light Rental.

Any person desiring the installation of a security light may apply at the Utilities Office and shall state on such application the location of the light and the wattage desired.

The light shall be installed on an existing pole or structure and connected to the utility lines without metering. The pole location must be accessible for a bucket truck by a street or alley. If the pole or structure does not meet requirements of the area to be lighted, the necessary material will be furnished by the Utility and charges for labor and material will be made upon completion of installation. If the light is requested to be removed in less than two years, a minimum $100.00 service fee will be applied, but may include additional time and material costs for removing equipment.

All new security lights shall be LED fixtures. The monthly security light rental fees shall be as follows:

1. 70 Watt HPS or Equivalent LED - $6.30 per month
2. 175 Watt MV or Equivalent LED - $8.70 per month
3. 250 Watt HPS or Equivalent LED- $11.50 per month
4. 400 Watt HPS or Equivalent LED - $15.50 per month

ELECTRIC SYSTEM

The light, wire, and pole will remain the property of the Utility and be maintained by the Utility at no cost to the customer. In existing situations in which the pole is owned by the customer, BMU may maintain or replace the pole at full cost to the customer.

Section 4-13. Unauthorized Connections.

No person shall make connection from a supply of electricity to any new electrical installation, any electrical installation which has been ordered disconnected, or any electrical installation where the service entrance or service equipment has been disconnected, moved or otherwise altered, until authorized by the electrical inspector, or with an affidavit from a licensed electrician, except in an emergency to safeguard life or property, when such connection is made in a safe manner by a person qualified and shall notify the electrical inspector as soon as possible.

Section 4-14. Admission to Read Meters.

Whenever it shall be necessary for the purpose of these rules and regulations, the Utilities Manager and other authorized employee of the Utility may enter upon any property for the purpose of reading or maintaining meters, obtaining information or conducting surveys or investigation. Entry shall be made during daylight or operating hours unless abnormal or emergency circumstances require otherwise. If entry needs to occur after daylight or operating hours, the above mentioned Utilities Manager or his agent shall give adequate notice to property owner or tenant before entering property.

Section 4-15. Meter Socket Maintenance.

The owner of each electric metering socket shall be responsible for the maintenance thereof. In the event an owner of such electric metering socket shall fail to maintain such socket, then the Brookings Municipal Utilities shall give said owner ten (10) days notice by certified mail of the corrective action which needs to be taken. If, at the expiration of ten (10) days from the date of the receipt of such certified letter the owner fails to take such corrective action, then the Brookings Municipal Utilities, in their discretion, may disconnect said service without further notification.

ELECTRIC SYSTEM

Section 5

Administration

Section 5-1. Enforcement and Information.

The Utilities Manager shall be authorized to administer and enforce these rules and regulations, except that he shall not recommend to the City Commission that an electrical license be cancelled without prior approval by the Utility Board.

The said Utilities Manager shall prescribe the form and detail of all applications, permits and reports required by these rules and regulations; and may provide interpretations or determine the applications of these rules and regulations where their meaning or application is questioned.

Section 5-2. Standard Operating Procedures.

The Utilities Manager may enact rules and regulations to be known as Standard Operating Procedures. The Board has reviewed the present Standard Operating Procedures dated October 29, 1986, and has approved the same. From and after October 29, 1986, the Utilities Manager may, at his discretion, change, amend, modify or add Standard Operating Procedures as he or she deems necessary. The Municipal Utilities Board reserves the right to change said Standard Operating Procedures by a majority vote at any time.

Section 5-3. Refusal of Electric Service.

Reasons for refusal – Use. Utility service may be refused for one or more of the following reasons:

(1) An applicant is indebted to the Brookings Utility for past bills incurred and refuses to liquidate the debt for the same class of service;

(2) An applicant refuses to pay a reasonable deposit, advance payment, or installation charge;

(3) An applicant, although he is not personally liable to the utility, is attempting to return service to an indebted household and no arrangements have been made to liquidate the debt of that household;

(4) An applicant is unwilling to provide correct information about any or all of the following:

(a) Past utility service;
(b) Previous employment;
(c) Previous address.

(5) An applicant is in violation of state statutes or Utility rules concerning evasion of payment, use of service for unlawful purposes, interference with or destruction of service facilities, or violation of service regulations.

Section 5-4. Disconnection of Electric Service.

Indiscriminate disconnection or reconnection prohibited. The Utility Company will not make indiscriminatory disconnections or reconnections.

Nonpayment of past due bill as reason for disconnection. Following is a list of conditions, all of which must be satisfied before a customer may be disconnected for nonpayment of a bill:

(1) Only the class of service for which payment is past due can be disconnected;

(2) The customer has received a payment period of not less than 15 days from billing transmittal date to due date and an additional notice period of not less than 5 days during which the particular bill has been owing. The payment period may be shortened if the customer has been properly place on an early payments list. The payment period may also be waived in cases of customer fraud or illegal use or when it is clear that the customer has left or is preparing to leave without paying a past due bill;

(3) The customer has received written notice of the utility's intention to disconnect as stated in Article IV Section 5-1 "Credit Policy".

(4) The customer, especially if he or she claims inability to pay or extenuating circumstances, is unwilling to enter into a reasonable agreement with the utility to liquidate the debt;

(5) There is no bona fide and just dispute surrounding the bill. A bona fide and just dispute is one that is appealed to the Brookings Utility Board. A dispute shall not be defined as bona fide and just if a subscriber does not pay the undisputed portion.

Other reasons for disconnection. A utility may disconnect a customer after reasonable notice for any of the following:

(1) Violation of Article IV Section 5-3 "Reasons for refusal – Use" numbers (3) and (5);

(2) Failure to comply with an agreement to liquidate a continuing debt as described in Article IV Section 5-4 "Nonpayment of past due bills and reason for disconnection" Number (4);

(2) Failure to pay an increased deposit or a deposit as described in Article IV Section 5-2 "Deposit Policy";

(3) Failure to pay an increased deposit or a deposit as described in Article IV Section 5-2 “Deposit Policy”;

(4) Failure to grant the utility access to read meters, inspect the utility’s facilities and conduct investigations for hazardous conditions.

The notice of disconnection. The notice of disconnection sent to the customer shall contain a specific explanation as explained in Article IV Section 5-1 “Credit Policy”.

The disconnecting act. Service shall not be disconnected on any Friday, Saturday, Sunday, legal holiday, or at any time when the utility’s business offices are not open to the public.

Last minute payments. The customer shall have the right to pay any delinquent bill at any time prior to disconnection in order to preserve uninterrupted service. If the utility representative who enters the customer’s premises to disconnect does not have the authority to collect bills, he may arrange for payment and service may not be disconnected.

Reconnection of Service. In the event service has been disconnected for valid cause, the Brookings Utility will charge a reconnect fee based on the cost of reconnection as stated in Article V Section 4-6.

Record to be kept. A record of all services disconnections which continue to have bad credit with the Utility company made under the provisions of Article IV Section 5-4 “Nonpayment of past due bill as reason for disconnection” shall be kept by the Utility Company for a period of not less than one year.

Landlord and tenant rule. If service is provided at an address different from the mailing address of the bill or if the utility has reason to know that a landlord and tenant relationship exists and the landlord, as a customer of the utility, would otherwise be subject to disconnection of service, the utility may not disconnect service until the following actions have been taken;

(1) The utility, after providing notice as required in this chapter, shall offer the tenant the opportunity to apply for service in his or her own name if it is economically feasible to provide such service. If the tenant declines to apply for service, the utility may disconnect service pursuant to this chapter;

(2) A utility shall not attempt to recover from a tenant, or condition service to a tenant upon, the payment of any outstanding bill or other charges of the landlord.

Residential winter disconnection. Notwithstanding the provisions of Article IV Section 5-4 “Nonpayment of pay due bills as reason for disconnection” and “Other reasons for disconnection”, a utility may not disconnect residential service from November 1 to March 31 without adding to the time periods of subdivision “Nonpayment of past due bills as

reason for disconnection" number (3) and additional 30 days before disconnecting that service. The utility shall give an additional 30 days until disconnection.

Residential medical emergency. Notwithstanding the provisions of Article IV Section 5-4 "Nonpayment of past due bills as reason for disconnection" and "Other reasons for disconnection", a utility shall postpone the disconnection of utility service to a residential customer for 30 days from the date of a physician's certificate or a notice from a public health or social service official which states that disconnection of service will aggravate an existing medical emergency to the customer, a member of his family, or other permanent resident of the premises where service is provided. Such extensions are limited to a single 30-day period.

Section 6

Aggregation of Retail Customer Demand Response

Section 6-1.

The Brookings Municipal Utilities or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the Brookings Municipal Utilities directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.

Section 6-2.

Retail customers served by Brookings Municipal Utilities wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by Brookings Municipal Utilities or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of Brookings Municipal Utilities.

ELECTRIC SYSTEM

Section 7

Ancillary Services Provided by Demand Response Resources

Section 7-1.

Brookings Municipal Utilities or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by Brookings Municipal Utilities directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).

Section 7-2.

Retail customers served by Brookings Municipal Utilities wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by Brookings Municipal Utilities or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of Brookings Municipal Utilities.

ARTICLE VI

RULES AND REGULATIONS GOVERNING CONNECTION TO AND THE USE OF THE BROOKINGS, SOUTH DAKOTA WASTEWATER COLLECTION AND TREATMENT SYSTEM

SECTION 1 AUTHORITY AND PURPOSE

These rules and regulations are adopted by the Brookings Municipal Utilities Board and are declared to be necessary for the efficient, economic and safe operation of the municipal wastewater collection and disposal system and for the protection of the health, safety and general welfare of the public in the Brookings, South Dakota area (hereinafter Brookings). The Rules and Regulations are intended to prevent and abate pollution through the regulation and control of connections to and the use of the system for conveyance, treatment and disposal of the waste and may be amended by the Utility Board at any time.

SECTION 2 PRETREATMENT

Section 2-1 General Requirements

These rules and regulations set forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Brookings South Dakota area (hereinafter Brooking) and enables the City to comply with all applicable state and federal laws required by the Clean Water Act (33 U.S.C., 1251 et. seq.) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of these rules and regulations are:

A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works, hereinafter POTW, that will interfere with its operation;

B. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving water, or otherwise be incompatible with the POTW;

C. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;

D. To reduce the health and safety risk for POTW workers and the public caused by the discharge of toxic pollutants into the POTW;

E. To enable Brookings to comply with its Surface Water Discharge Permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject;

F. To provide for equitable distribution of the cost of the POTW.

Section 2-2 Administration

These rules and regulations provide for the regulation of all contributors to the municipal wastewater through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users; authorized monitoring and enforcement activities; require user reporting; assume that existing customer's capacity will not be preempted; and provide for the setting of fees for the equitable distribution of the costs resulting from the program established herein.

These rules and regulations shall apply to the City of Brookings and to persons outside the city who are, by contract or agreement, users of the Brookings Municipal Wastewater System. Except as otherwise provided herein, the General Manager of the Brookings Municipal Utilities, his agents and representative shall administer, implement and enforce the provisions of these rules and regulations.

Section 2-3 Definitions

Unless the context specifically indicates otherwise, the meaning of the terms used in these rules and regulations, shall have the meanings hereinafter designated:

Act or "The Act" The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

Approval Authority The Secretary of the South Dakota Department of Environment and Natural Resources.

Authorized or Duly Authorized Representative of the User An authorized representative of an industrial user may be:

1. A responsible corporate officer, if the Industrial User submitting the reports required by these regulations is a corporation. For the purpose of these regulations, a responsible corporate officer means:

(i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

(ii) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. A general partner or proprietor if the Industrial User submitting the reports required by these regulations is a partnership, or sole proprietorship respectively.

3. A duly authorized representative of the individual designated in paragraph (1)(1) or (1)(2) of this section if:

(i) the authorization is made in writing by the individual described in paragraph (1)(1) or (1)(2):

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(iii) The written authorization is submitted to BMU.

4. If an authorization under paragraph (1)(3) of this section is no longer accurate because of different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (1)(3) of this section must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

Best Management Practices (BMP) The schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2-5 and 2-8. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leak, sludge or waste disposal, or drainage from raw materials storage.

Brookings Municipal Utilities or BMU is the duly constituted Brookings Municipal Utilities Board or the City of Brookings, South Dakota.

Biochemical Oxygen Demand (BOD) The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20^{o} centigrade usually expressed as a concentration [milligrams per liter (mg/l].

WASTEWATER SYSTEM

Building Sewer Service A sewer conveying wastewater from the premises of a user to the POTW.

Categorical Pretreatment Standard or Categorical Standards Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act which applies to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N,

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

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

Existing Source Any source of discharge that is not a new source.

General Manager The person designated by the Brookings Municipal Utility Board to supervise the operation of the publicly-owned treatment works and who is charged with certain duties and responsibilities by these rules and regulations.

Grab Sample A sample which is taken from a wastestream with no regard to the flow in the wastestream and over a period of time not exceeding fifteen (15) minutes.

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

Indirect Discharge or Industrial Discharge The introduction of non-domestic pollutants into the POTW from any source regulated under Section 307(b) (c) or (d) of the Act.

Industrial User or User. A source of indirect discharge.

Interference A Discharge which, alone or in conjunction with a discharge or discharges from other sources, both: 1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and 2) Therefore is a cause of a violation of any requirement of the POTW's Surface Water Discharge 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.

Local Limit Specific discharge limits developed and enforced by BMU upon industrial or commercial facilities to implement the general and specific discharge prohibitions. The discharge limits are found in Section 2-8 of these rules and regulations.

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 that 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. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
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 (1) (b) or (c) above but otherwise alters, replaces or adds to existing process or production equipment.
3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
    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; or

b. 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.

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

National Pollution Discharge Elimination System or NPDES Permit A permit issued pursuant to Section 402 of the act (33 U.S.C. 1342).

Pass Through A discharge which exits the POTW to the receiving water in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES Permit, including an increase in the magnitude or duration of a violation.

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.

pH A measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant Any dredged spoil, solid waste, incinerator residue, filter backwash sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes. And certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor).

POTW Treatment Plant or WWTP That portion of the POTW designed to provide treatment to wastewater.

WASTEWATER SYSTEM

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 or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the pollutant concentration.

Pretreatment Requirements Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on and industrial user.

Pretreatment Standard Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) & (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established in Sections 2-5 and 2-8.

Prohibited Discharge Standards or Prohibited Discharges Absolute prohibitions against the discharge of certain substances. Section 2-5 and 2-8 contain these prohibitions.

Publicly Owned Treatment Works (POTW) A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned in this instance by the City. 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 these rules and regulation, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

Shall is mandatory: May is permissive.

Significant Industrial User:

1. A user subject to categorical pretreatment standards; or
2. A user that:
    a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
    b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
    c. Is designated as such by BMU on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

3. Upon a finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, BMU may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug Load or Slug Discharge Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 2-5. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate BMU regulation, Local Limits or Permit conditions.

South Dakota Department of Environment and Natural Resources or SDDENR. Is the South Dakota Department of Environment and Natural Resources. This is the State agency that issues Surface Water Discharge Permits and is the Approval Authority for BMU wastewater control programs.

State State of South Dakota, its agencies and authorized personnel.

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, 1987, as amended.

Storm Water Any flow occurring during or following any form of natural precipitation and resulting therefrom, including snowmelt.

Total Suspended Solids or 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.

User or Industrial User. A source of indirect discharge.

Wastewater The liquid and water-carried industrial or domestic waste from dwellings, commercial building, industrial facilities, and institutions, together which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Waters of the State All streams, lakes, ponds, marshes, watercourses, waterways, wells, sprints, 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 state or any portion thereof.

WASTEWATER SYSTEM

Wastewater Contribution Permit Is a permit issued by BMU as set forth in Section 2-11 of these rules and regulations.

Section 2-4 Abbreviations

The following abbreviations, when used in these rules and regulations, shall have the designated meanings:

ASTM – American Society for Testing and Materials
BMR-Baseline Monitoring Report
BMU-Brookings Municipal Utilities
BOD – Biochemical Oxygen Demand
CFR – Code of Federal Regulations
CIU-Categorical Industrial User
COD – Chemical Oxygen Demand
EPA – US Environmental Protection Agency
IU-Industrial User
l – Liter
mg – Milligram
mg/l – Milligrams per liter
NPDES – National Pollutant Discharge Elimination System
POTW – Publicly Owned Treatment Works
SDCL – South Dakota Codified Laws
SDDENR-South Dakota Department of Environment and Natural Resources
SIC – Standard Industrial Classification
SIU-Significant Industrial User
SNC-Significant Noncompliance
SWD permit – South Dakota surface water discharge permit
SWDA – Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
TSS – Total Suspended Solids
USC – United States Code

Section 2-5 Prohibited Discharge Standards

A. General Prohibitions. No user shall introduce or cause to be introduced, any pollutant or wastewater which causes Pass Through, Interference, causes a hazard to human life, or creates a public nuisance: These general prohibitions apply to all Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other national, state or local pretreatment standards or requirements.

B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

1. Pollutants which create a fire or explosive hazard in the POTW, including but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, diesel fuels, kerosene, alcohols or any other substances which BMU, the State or EPA has notified the user is a fire hazard or hazard to the system;

2. Pollutants which will cause corrosive structural damage to the POTW, but in no case Discharges with a pH less than 5.0, or greater than 12.5;

3. Solids or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in Interference. This includes, but is not limited to, grease, rags, “flushable” wipes, grit/sand/settle able solids, and similar substances.

4. Any pollutant, including oxygen demanding pollutants (BOD, antifreeze, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW;

5. Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40 degrees Centigrade (104 degrees Fahrenheit);

6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

8. 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 are sufficient to prevent entry into the sewers for maintenance and repair;

9. Trucked or hauled wastes, except at discharge points designated by BMU. Refer to Section 2-18.

Section 2-6 National Categorical Pretreatment Standards

Users must comply with the categorical pretreatment standards found at 40 CFR, Subchapter N, Parts 405-471.

A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, BMU may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, BMU shall impose an alternate limit in accordance with 40 CFR 403.6(e).

C. A Categorical Industrial User, CIU may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

D. A CIU may obtain a net/gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

Section 2-7 State Requirements

If State law pertaining to limitations and/or restrictions on discharges are more stringent than Federal requirements or any limitations contained in these rules, then the State requirements and limitations shall be applicable.

Section 2-8 Local Limits

No user shall discharge or cause or allow to be discharged into the POTW any wastes which exceed the following concentrations (Local Limits):

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Parameter	Daily Maximum Limit
Arsenic	0.21 mg/l
Cadmium	0.05 mg/l
Chromium (total)	2.30 mg/l
Copper	2.79 mg/l
Lead	0.75 mg/l
Mercury	0.07 mg/l
Molybdenum	1.28 mg/l
Nickel	4.18 mg/l
Selenium	0.34 mg/l
Silver	2.43 mg/l
Zinc	8.52 mg/l
pH	5.0 – 12.5

The above limits apply at the point the wastewater is discharged into the POTW. All concentrations are for the "total" of the pollutant unless indicated otherwise.

Section 2-9 BMU Right of Revision

BMU reserves the right to establish by rules, regulations or ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in Section 2-1 of these rules and regulations. Furthermore, BMU reserves the right to amend any and all of the Rules, Regulations or Ordinances pertaining to discharges to the wastewater disposal system at any time.

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Section 2-10 Dilution

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

Section 2-11 Wastewater Contribution Permits

When requested by BMU, a user must submit information on the nature and characteristics of its wastewater. BMU is authorized to prepare a wastewater contribution permit application, for this purpose and may periodically require users to update this information. Users required to obtain a wastewater contribution permit shall complete and file with BMU General Manager an application in the form prescribed by BMU and pay an application fee as determined by BMU General Manager.

A. Wastewater Contribution Permitting: Existing Connections

No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater contribution permit from BMU General Manager. A Wastewater Contribution Permit that is effective at the time these rules and regulations are adopted, shall continue through the effective date of the permit.

B. Wastewater Contribution Permitting: New Connections

Any user required to obtain a wastewater contribution permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater contribution permit, in accordance with these rules and regulations, must be filed at least thirty (30) days prior to the date upon which any discharge will begin or recommence.

C. Wastewater Contribution Permit Application Contents

All users required to obtain a wastewater contribution permit must submit a permit application. The BMU General Manager may require all users to submit as part of an application the following information:

1. Name, address of the facility, including the name of the operator and owner;

2. SIC number according to the Standard Industrial Classification Manual;

3. Wastewater constituents and characteristics including but not limited to those contained in Section 2-8 of these rules and regulations and if necessary BOD, O&G, TSS, NH_3, TKN and pH. Wastewater constituents shall be determined using 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;

4. Time and duration of discharges;

5. Average and maximum daily wastewater flow rates, including daily, monthly and seasonal variations, if any;

6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, and appurtenances by the size, location and elevation and all points of discharge;

7. Description of activities, facilities and plant processes on the premises including a list of all materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

8. Each product produced by type, amount, process or processes and rate of production;

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

10. Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

11. Any other information as may be deemed by BMU to be necessary to evaluate the permit application.

D. Application Signatories and Certification

All wastewater contribution permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"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."

E. Wastewater Contribution Permit Decisions

BMU will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a complete wastewater contribution permit application, BMU will determine whether or not to issue a wastewater contribution permit. BMU General Manager may deny any application for a wastewater contribution permit. The evaluation period may be expedited if deemed necessary by BMU.

F. Wastewater Contribution Permit Contents

A wastewater contribution permit shall include such conditions as are deemed necessary by BMU to prevent pass through or interference, protect the quality of the body of water receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal and protect against damage to the POTW.

Permits shall contain the following:

1. A statement that the permit is in effect for a specific period of time; not to exceed five years;

2. A statement of non-transferability of the permit without prior written notification to BMU General Manager, and BMU's written consent to the assignment.

3. Effluent limits, including Best Management Practices, based on applicable general pretreatment standards categorical pretreatment standards, local limits, State and local law;

4. Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored. Sampling frequency, location and type based on Federal, State and local law;

5. Requirements for submission of technical reports, discharge reports or self-monitoring reports;

6. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the general pretreatment regulations, and affording BMU access thereto;

7. Requirements for notification to BMU General Manager of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.

8. Requirements for notification of accidental or slug discharges as per 2-12 F.;

9. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;

Permits may contain the following:

1. Limits on minimum, average and maximum rate and time of discharge or requirements for flow regulations and equalization;

2. Requirements for installation and maintenance of inspection and sampling facilities;

3. Applicable compliance schedules;

4. Other conditions as deemed appropriate by BMU to ensure compliance with these rules and regulations.

G. Wastewater Contribution Permit Duration

Wastewater contribution permits shall be issued for a specified time period not to exceed five (5) years.

H. Wastewater Contribution Permit Appeals

BMU may provide public notice of the issuance of a wastewater contribution permit. Any person, including the user, may petition BMU General Manager to reconsider the terms of a wastewater contribution permit within 30 days of notice of its issuance.

1. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

2. In its petition, the appealing party must indicate the wastewater contribution permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater contribution permit.

3. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

4. If BMU General Manager fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater contribution permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

5. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the proper court.

I. Wastewater Contribution Permit Modification

BMU General Manager may modify a wastewater contribution permit for good cause, including, but not limited to, the following reasons:

1. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

2. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater contribution permit issuance;

3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

4. Information indicating that the permitted discharge poses a threat to the POTW, BMU personnel, or the receiving waters;

5. Violation of any terms or conditions of the wastewater contribution permit;

6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater contribution permit application or in any required reporting;

7. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

8. To correct typographical or other errors in the wastewater contribution permit; or

9. To reflect a transfer of the facility ownership or operation to a new owner or operator.

J. Wastewater Contribution Permit Transfer:

Wastewater contribution permits are issued to a specific user for a specific operation. A wastewater contribution permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of BMU General Manager. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

K. Wastewater Contribution Permit Revocation

BMU may revoke a wastewater contribution permit for good cause, including, but not limited to, the reasons outlined in Section 2-20 B. of these rules and regulations.

L. Wastewater Contribution Permit Reissuance

A user with an expiring wastewater contribution permit shall apply for a wastewater contribution permit reissuance by submitting a complete permit application, in accordance with these rules and regulations, a minimum of (30) days prior to the expiration of the user's existing wastewater contribution permit (or as otherwise specified in the expiring permit, but no less than 30 days).

M. Industrial Users Fees

An annual permit fee for cost of writing and issuing permits and overseeing the permitted industry shall be determined by BMU General Manager. An additional charge for the use of contract laboratories shall be the cost of contract laboratory fees plus 10%.

Further, BMU General Manager may levy additional charges to significant industrial users which may include:

1. Fees for cost reimbursement for setting up and operating the BMU Pretreatment Program;

2. Fees for monitoring, inspections and surveillance procedures;

3. Fees for reviewing accidental discharge procedures and construction;

4. Fees for permit applications;

5. Fees for filing appeals;

6. Fees for permits; and

7. Other fees as BMU may deem necessary to carry out the requirements contained herein.

N. Wastewater High Strength Surcharges

BMU shall determine a user's average daily poundage of 5-day, 20^{o} Centigrade Biochemical Oxygen Demand which has been discharged to the POTW in excess of a strength of 200 mg/l. Brookings Municipal Utilities shall determine the user's average daily poundage of Suspended Solids, which has been discharged to the POTW in excess of a strength of 250 mg/l. Brookings Municipal Utilities shall determine the user's average daily poundage of Total Kjehldahl Nitrogen, which has been discharged to the POTW in excess of a strength of 30 mg/l. The sum of the number of pounds of BOD, TSS and TKN found in excess shall be multiplied by the fee as outlined in Article IV Section 2-94. That product shall be the high strength surcharge.

O. Users Not Connected to the Municipal Waterworks

In the event that any premises which discharges any such wastes into the POTW is not connected to the municipal waterworks and, therefore, has no municipal water meter or meter acceptable to BMU, then the amount of water so used shall be determined by BMU by any reasonable measures available in order to estimate the wastewater user service charge as provided in this section, or the owner or other interested person at his expense shall install and maintain a meter acceptable to BMU for said purpose.

Section 2-12 Reporting Requirements for Permittee

Numerous reports are required of industrial users by federal, state and local regulations. These reports are important for regulatory purposes and for documenting a users compliance with regulatory requirements. Because reporting is an important user activity, the required compliance reports are listed separately and discussed in this section of the rules and regulations.

. Baseline Monitoring Report.

1. Within one hundred eighty 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to BMU General Manager a report which contains the information listed in paragraph 2, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall submit to BMU General Manager a report which contains the information listed in paragraph 2, Below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

2. Baseline Monitoring report shall include the following information:

   a. Identifying information. The name and address of the facility, including the name of the operator and owner.

   b. Environmental permits. A list of any environmental control permits held by or for the facility.

   c. Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

   d. Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

   e. Measurement of pollutants

   f. The categorical pretreatment standards applicable to each regulated process.

g. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by BMU, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 2-12 I. of these rules and regulations.

h. Sample collection must be performed in accordance with procedures set out in Section 2-12 J. of these rules and regulations.

i. Certification statement. A statement reviewed by the user's authorized representative and certified by a qualified professional, including whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or Requirements. A qualified professional for purposes of this section is an environmental professional that has specific knowledge of industrial wastewater treatment and industrial wastewater generating processes.

j. Compliance schedule. If 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 preteatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 2-12 B. of these rules and regulations.

k. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 2-11 D of these rules and regulations.

B. Compliance Schedule Progress Reports.

The following conditions shall apply to compliance schedules required by these rules and regulations.

1. 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., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, (etc.).

2. No increment referred to in paragraph (a) shall exceed nine (9) months.

3. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to BMU General Manager including as 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. In no event shall more than nine (9) months elapse between such progress reports to BMU.

C. Reports on Compliance with Categorical Pretreatment Standard Deadline, (90 day compliance report).

Within (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standard and requirements shall submit to BMU General Manager a report containing the information described in Section 2-12 of these rules and regulations. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 2-11 D. of these rules and regulations.

D. Periodic Compliance Reports.

1. All significant industrial users shall, at a frequency determined by BMU but in no case less than twice per year (in July and January), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 2-11 D. of these rules and regulations.

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

3. If a user subject to the reporting requirement in this section monitors and analyzes any regulated pollutant at the appropriate sampling location more frequently than required by BMU, using the procedures prescribe in Section 2-12 I. of these rules and regulations, the results of this monitoring shall be included in the report.

E. Reports of Changed Conditions.

Each user must notify BMU General Manager and Pretreatment Administrator of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

1. BMU may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater contribution permit application under Section 2-11 B. of these rules and regulations.

2. BMU General Manager may issue a wastewater contribution permit under Section 2-11 G. of these rules and regulations or modify an existing wastewater contribution permit under Section 2-11 J. of these rules and regulations in response to changed conditions or anticipated changed conditions.

3. For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20 percent (20%) or greater, and the discharge of any previously unreported pollutants.

F. Reports of Potential Problems and Slug Discharges.

In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify BMU General Manager and Pretreatment Administrator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

Within five (5) days following such discharge, the user shall, unless waived by BMU, submit a detailed written report describing the cause(s) of the discharge and the measures to 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, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to these rules and regulations.

G. Reports from Unpermitted Users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to BMU as required.

H. Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify BMU General Manager within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to BMU within thirty (30) days after becoming aware of the violation. The user is not required to resample if BMU monitors at the user's facility at least once a month, or if BMU samples between the user's initial sampling and when the user receives the results of this sampling.

I. Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

J. Sample Collection

1. Except as indicated is Section 2 and 3 below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by BMU. Where time-proportional composite sampling or grab sampling is authorized by BMU, the samples must be representative of the discharge.

Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by BMU, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

2. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

3. For sampling required in support of baseline monitoring and 90-day compliance reports required in 2-12 A. and C., a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, BMU may authorize a lower minimum. For the remainder of the reports required here, the User is required to collect the number of grab samples necessary to assess and assure compliance by the applicable Pretreatment Standards and Requirements.

K. Date of Receipt of Reports

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date the report is received by BMU General Manager shall be considered the date of receipt.

L. Recordkeeping

Users subject to the reporting requirements of these rules and regulations shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by these rules and regulations and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; and analytical techniques or methods used; and the results of such analyses. These records including any documentation pertaining to Best Management Practices, shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or BMU, or where the user has been specifically notified of a longer retention period by BMU.

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M. Notification of the Discharge of Hazardous Waste.

The Permittee shall notify BMU General Manager, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. 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 Permittee discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Permittee: An identification of the hazardous constituents contained in the wastes, an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place within 180 days of the effective date of the rule. A Permittee that starts discharging after the effective date of the rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403. 12 (j). The notification requirement in this section does not apply to pollutants already reported under self monitoring requirements or 40 CFR 403.12 (b), (d), and (e). Time limits for notification and other regulatory requirements are contained in 40 CFR Part 403.12 (p) (1), (2), (3) and (4).

Section 2-13 Monitoring Facilities

BMU may require to be provided and operated at the user's expense, monitoring facilities to allow 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 BMU 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 it will not be obstructed by landscaping or parked vehicles.

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.

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Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with requirements established by BMU and all applicable local construction standards and specifications. Construction completion shall be determined by BMU. BMU shall have the unrestricted right to monitor flows at any time.

Section 2-14 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with these rules and regulations and shall achieve compliance with all Categorical Pretreatment Standards in Section 2-6, local limits and the prohibitions set out in Section 2-5 of these rules and regulations within the time limitations specified by EPA, the State or BMU, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to BMU General Manager for review and shall be acceptable to BMU before construction of the facilities. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce discharge acceptable to BMU under the provisions of these rules and regulations.

Section 2-15 Accidental Discharges/Slug Control Plans

BMU shall evaluate whether each Significant Industrial User needs a plan or other action to control slug discharges. For purposes of this subsection, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge which has a reasonable potential to cause Interference or Pass Through, or in any other way violate local regulations, local limits or Permit conditions. The results of such activities shall be available to the Approval Authority upon request. Significant Industrial Users are required to notify the POTW immediately of any changes at its facility affecting potential for a slug Discharge. If BMU decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

A. Description of discharge practices, including non-routine batch discharges;

B. Description of stored chemicals;

C. Procedures for immediately notifying the BMU General Manager of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five days;

D. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment necessary for emergency response.

Section 2-16 Inspection, Monitoring and Right of Entry

BMU shall inspect the facilities of any user to ascertain whether the purpose of these rules and regulations are being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow BMU ready access to all parts of the premises for the purposes of inspection, sampling, records examination, or in the performance of any of their duties. At a minimum, BMU will conduct an annual inspection of each Significant Industrial User.

Officials of BMU, EPA, or South Dakota Department of Environment & Natural Resources have the right to inspect and copy any records relating to compliance with Pretreatment Standards. These records shall be maintained for at least three (3) years.

In the event of abnormal or emergency circumstances, BMU shall have the right to immediate entry onto the premises upon notice to the property owner or tenant. BMU, South Dakota Department of Environment & Natural Resources or EPA 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. 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 BMU, South Dakota Department of Environment & Natural Resources and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

Section 2-17 Confidential Information

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 as allowed by SDCL 1-27. However, if any person or entity falls under the provisions of SDCL 1-27-1.5 or 1-27-1.6, then no disclosure shall be made. However, all such information may be used by BMU in compiling or publishing analyses or summaries relating to the general condition of the public water so long as such analyses or summaries do not identify any user who has demonstrated the need for confidentiality.

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When requested by the person furnishing a report, the portions of a report which are not disclosable under SDCL 1-27-1.5 or 1.6 shall not shall not be made available for inspection by the public but shall be made available upon request to governmental agencies for uses related to these rules and regulations, the National Pollutant Discharge Elimination System (NPDES) Permit, State Surface Water Discharge System Permit and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Effluent wastewater constituents and characteristics will not be recognized as confidential information.

Section 2-18 Hauled Wastes

This rule sets forth uniform requirements for Indirect Discharges of Hauled Domestic Wastes to the POTW of Brookings. This rule shall apply to all users that generate, pick up, transport, and dispose of any hauled waste at the BMU designated disposal station. Discharge of any trucked or hauled waste at a location other than the designated disposal station shall be a violation of this rule. This authorizes the issuance of hauled domestic waste discharge permits with applicable controls. Additionally this rule establishes prohibited discharge standards, requires the use of a manifest system provides for monitoring, compliance and enforcement activities. User reporting requirements are established.

A. Definitions.

Definitions contained here relate specifically to the hauled waste discharge permits. Other definitions that may also apply to this section are contained in Section 2-3 of the rules and regulations.

1. Designated Disposal Station. An authorized site where the permitted liquid domestic waste hauler is allowed to discharge hauled or trucked waste.

2. Domestic-Only Wastes. Wastewater from normal residential activities, including but are not limited to, wastewater from kitchen, bath, and laundry facilities. Wastewater from personal sanitary facilities such as toilets, showers, bathtubs, fountains, non-commercial sinks and similar structures from commercial, industrial or institutional buildings are included provided the wastewater exhibits characteristics similar to those of wastewater from normal residential activities. Specifically excluded from this definition is wastewater from commercial, industrial, or institutional laundries or food preparation facilities. May also be referred to as hauled domestic wastewater or hauled liquid domestic wastewater.

3. Domestic-Only Source. A generator of domestic-only wastewater.

4. Generator. The person who is the source of the waste that is delivered for disposal at the POTW by the Transporter.

5. Manifest. A written document required by BMU that specifies, among other things, the source and nature of wastes to be discharged to the designated disposal station.

6. Manifest System. A system consisting of a document that records information and data on the generation, transportation, and disposal of wastewater.

7. Permit. The formal written document issued by BMU General Manager authorizing a person to discharge hauled waste at the POTW designated disposal station.

8. Permittee. A person granted a permit. Includes officers, employees, agents, representatives and others acting on behalf or for the benefit of the Permittee under the Permit.

9. Transporter. The permittee authorized by BMU General Manager to pick-up, transport, and dispose of wastes at the POTW's designated disposal station.

10. Vehicle. A mobile device in which or by which liquid waste may be transported upon a public street or highway.

B. Application Required.

A person who desires a permit to haul domestic liquid wastes to the BMU designated disposal station must make application on a form provided by BMU. If a person fails to submit an application as required or the person submits an incomplete application, the person shall be prohibited from transporting and disposing of hauled or trucked waste at the BMU designated disposal station. This prohibition shall continue until such time as BMU determines the applicant has fulfilled all application requirements, vehicle inspection and a current permit is issued.

An application to haul domestic liquid waste shall contain the following information:

1. A statement of the Company/Individuals name, address, telephone number and date of application. If the applicant is other than an individual, BMU may require additional information regarding officers, general partners, etc.

2. Individual providing the information and his/her title and telephone number.

3. Identification of all vehicles owned and/or operated by the applicant that will be used in connection with the hauling of wastewater. Vehicle identification will include vehicle make, model, model year, vehicle identification number (VIN number), motor vehicle registration license plate number and liquid waste hauling capacity.

4. The address where the vehicles used in connection with the business or in transporting any wastes will be stored or parked when not in use.

5. A listing of all disposal sites used for transport and disposal of trucked or hauled wastes by the applicant at the time this application is completed.

6. Proof of all required insurance coverages.

7. Any other information deemed necessary by BMU.

8. All hauled domestic waste discharge permit applications and reports (excluding manifests) must be signed by the transporter and contain the certification on the permit application.

C. Permit Application Deadlines.

A User must apply for a hauled domestic waste discharge permit from BMU General Manager a minimum of sixty (60) days prior to commencing discharge into the designated disposal station. An application form shall be provided by BMU.

A User with an expiring hauled domestic waste discharge permit shall apply for hauled domestic waste discharge permit re-issuance by submitting a completed permit application, within sixty (60) days prior to expiration of the existing permit. Reapplication shall be in a form and manner prescribed by BMU. Failure to submit a new application as required or an incomplete application shall cause BMU to prohibit the transport of hauled or trucked waste to the POTW by the Permittee upon expiration of the current valid permit.

D. Permit Required.

No transporter shall discharge hauled domestic waste to the BMU designated disposal station without first obtaining a hauled domestic waste discharge permit from BMU General Manager. Obtaining a hauled domestic waste discharge permit does not

relieve a Permittee of its obligation to comply with all Federal and State Pretreatment Standards or requirements or with other requirements of Federal, State, and local law. Permit contents shall contain information as deemed appropriate by BMU to protect the POTW.

Hauled domestic waste discharge permits at a minimum shall contain the following provisions:

1. Permittee's name and address;

2. Applicable legal authority;

3. Identification of the BMU designated disposal station;

4. Statement of non-transferability;

5. Re-application requirements;

6. Effective and Expiration date of the permit;

7. Definitions;

8. Listing of authorized vehicles owned and/or operated by Permittee that are allowed to transport and dispose of waste at the POTW;

9. Specific prohibitions and applicable Pretreatment Standards and requirements;

10. Special requirements for transporters of trucked or hauled waste;

11. General permit requirements;

12. A statement of applicable civil and criminal penalties for violation of any conditions, requirements, or standards;

13. Any other requirements, limitations, or conditions deemed necessary by BMU.

WASTEWATER SYSTEM

E. Hauled Domestic Waste Discharge Permit Decisions.

BMU will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete hauled domestic waste discharge permit application BMU will determine whether to issue a hauled waste discharge permit. BMU General Manager may deny any application for a hauled domestic waste discharge permit.

The reasons for denying the issuance of a Hauled Waste Discharge Permit may include, but not be limited to the following:

1. Incomplete hauled domestic waste discharge permit application;

2. Applicant violated any term or condition of the Sewer Use Rules and Regulations, or applicable state or federal laws;

3. Changes in design or capability of the POTW;

4. Misrepresentation or failure to disclose fully all relevant facts in the permit application;

5. Falsification by the Applicant of any report, manifest information or other records required by the Sewer Use Rules and Regulations or applicable state or federal laws;

F. Hauled Domestic Waste Discharge Permit Duration.

Hauled Domestic Waste Permits shall be issued for a specified time period not to exceed (5) years. A permit may be issued for a period of less than a year or may be stated to expire on a specific date.

G. Hauled Domestic Waste Discharge Permit Transfer.

Hauled domestic waste discharge permits, issued under this rule, may not be transferred, sold, traded, assigned or sublet by the Permittee. Hauled domestic waste discharge permits shall be voided upon cessation of operations or transfer of business ownership. The hauled domestic waste discharge permit issued to a particular Permittee is void upon the issuance of a new hauled domestic waste discharge permit to that Permittee.

H. Hauled Domestic Waste Discharge Permit Modification.

BMU General Manager may modify a hauled domestic waste discharge permit issued under this rule, for good cause, including, but not limited to, the following reasons:

1. Incorporate new or revised Federal, State, or local pretreatment standards or requirements;

2. Permittee substantially adds discharge volume or alters character which was not considered in the current permit;

3. A change in POTW conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge;

4. Violation of any terms or conditions of the hauled domestic waste discharge permit;

5. Misrepresentation or failure to disclose fully all relevant facts in the permit application or required reporting;

6. Information indicating that the authorized discharge poses a threat to the POTW, POTW personnel or the receiving waters to which the POTW discharges;

7. To correct typographical or other errors in the permit; or

8. Respond to requests of the Permittee for modifications.

I. Hauled Domestic Waste Discharge Permit Revocation.

BMU General Manager may revoke a hauled domestic waste discharge permit for good cause, including, but not limited to, the following reasons:

1. Violation of any term or condition of the ordinance, the hauled domestic waste discharge permit, or applicable state or federal laws;

2. Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts in either the permit application or any required report;

3. Promulgation of a more stringent Pretreatment Standard by state or federal agencies having jurisdiction over receiving waters;

4. Changes in the processes used by the Permittee or changes in the discharge volume or character;

5. Changes in design or capability of the POTW;

6. Failure to pay charges or fines;

7. Failure of the Permittee to report an accidental discharge;

8. Falsification by the Permittee of any report, manifest information or records required by this ordinance;

9. Failure of the Permittee to report significant changes in operations or hauled waste characteristics;

10. Tampering by the Permittee with POTW monitoring or sampling equipment;

11. Refusing to allow BMU timely access to the Permittee's facility premises, vehicles or records;

12. Failure to complete a wastewater discharge permit application or manifest as required; or

13. Any other grounds for revocation or suspension as may be allowed by BMU.

J. Disposal Station Supervision.

Discharging of hauled or trucked domestic waste to the designated disposal station shall be allowed only under the supervision of BMU during the hours specified by BMU. Transporters shall obey all POTW safety and traffic regulations while on the treatment plant site.

K. Hauled Domestic Waste Responsibilities.

A hauled domestic waste transporter shall:

1. Maintain tanks, pumps, valves, hoses, racks, cylinders, pipes, and connections on a vehicle in good repair and free from leaks;

2. Provide a safety plug or cap for each tank;

3. Ensure the vehicle exterior is clean at the beginning of each work day (prior to entry to the POTW);

4. Clean interior of tanks to ensure non-permitted residual wastes do not remain in the tank and mix with permitted wastes;

5. Portable tanks or other containers temporarily installed in vehicles are prohibited (unless prior approval is obtained from BMU, ex. Portable toilets);

6. Piping, valves, and connectors (excluding the discharge hose) shall be permanently attached to tank and/or vehicle;

7. Tanks must be liquid tight and constructed so every interior and exterior portion can be easily cleaned;

8. Opening of tank must be constructed so collected waste will not spill during filling, transfer, transport or disposal;

9. Outlet connections must be constructed ensuring liquid waste will not leak, flow or spill from the vehicle;

10. Outlets must be designed for the liquid waste handled and be capable of controlling flow or discharge without spillage and undue spray on or flooding of immediate surroundings while in use; and

11. Permitted vehicles are subject to subsequent inspection by BMU personnel when discharging wastes to the designated disposal station. Any items of nonconformance regarding the condition of the vehicle, which developed since the permit was issued, may be noted by BMU and a written notice shall be sent to the Permittee notifying him of the need to correct the deficiency within a specific time limit.

L. Reporting Requirements.

It is unlawful for any Permittee to discharge hauled or trucked waste at the POTW without completing a manifest. The Permittee must provide a copy of the manifest to BMU General Manager for each generator from which waste is obtained. The manifest form shall be provided by BMU.

M. Reports of Changed Conditions.

The Permittee must notify BMU General Manager in writing, of any planned significant changes to the Permittee's operations which might alter the nature or quality of its wastewater prior to discharge to the designated disposal station.

1. BMU may require the Permittee to submit information necessary to evaluate the changed condition, including the submission of a new hauled domestic waste discharge permit application.

2. BMU General Manager may issue a hauled domestic waste discharge permit or modify an existing hauled domestic waste discharge permit in response to changed conditions or anticipated changed conditions.

N. Liability Insurance.

The limits of liability for the insurance required shall not be less than the following amounts or greater where required by Laws and Regulations:

1. Commercial General Liability (including Premises-Operations; Independent Contractors' Protective; Personal Injury; Property Damage; and Contractual Liability):
   a) General Aggregate: $1,000,000
   b) Each Occurrence: $ 500,000

2. Automobile Liability (including owned, non-owned, and hired vehicles):
   a) Bodily Injury and Property Damage, Combined Single Limit: $100,000

Section 2-19 Wastes From Other Jurisdictions

If a sanitary sewer district, town, city, village, municipality or other jurisdiction outside Brookings' city limits contributes wastewater to the POTW, BMU General Manager shall enter into an interjurisdictional agreement with the contributing jurisdiction.

Before entering into an agreement, the contributing jurisdiction will provide BMU General Manager the following information:

1. A description of the quality and quantity of wastewater discharged to the POTW by the contributing jurisdiction;

2. An inventory of all users located within the contributing jurisdiction that are discharging to the POTW; and

3. Any other information BMU deems necessary.

The interjurisdictional agreement shall contain the following:

1. A requirement for the contributing jurisdiction to adopt sewer use rules which are at least as stringent as these and local limits which are at least as stringent as those set forth in Section 2-8 of these rules and regulations;

2. A requirement for the contributing jurisdiction to submit an updated user list every year on or before January 31;

3. A provision specifying that BMU will implement its pretreatment activities as necessary in the jurisdiction;

4. A provision ensuring BMU access to the facilities of users located within the jurisdiction's boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by BMU to carry out the Pretreatment Program;

5. A provision specifying remedies available for noncompliance to the conditions of the interjurisdictional agreement;

6. Requirements for monitoring the contributing jurisdiction's discharge;

Section 2-20 Enforcement

Whenever BMU General Manager finds any user has violated or is violating these rules and regulations, its Wastewater Contribution Permit, or any prohibition, limitation or requirements contained herein, BMU General Manager may initiate upon such user any of the following enforcement actions, consistent with the BMU Enforcement Response Plan:

A. Suspension of Wastewater Service.

BMU General Manager may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference or pass through the POTW or causes BMU to violate any condition of its SWD Permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the user to comply voluntarily with the suspension order, BMU General Manager shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize danger to the

POTW or endangerment to any individuals. BMU General Manager shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the User describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to BMU General Manager within fifteen (15) days of the date of occurrence.

B. Wastewater Contribution Permit Revocation

BMU General Manager may revoke a wastewater contribution permit for good cause, including, but not limited to, the following reasons:

1. Failure to provide prior notification to BMU General Manager of changed conditions pursuant to Section 2-12 E. of these rules and regulations;

2. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

3. Falsifying self-monitoring reports;

4. Tampering with monitoring equipment;

5. Refusing to allow BMU timely access to the facility premises and records;

6. Failure to pay fines;

7. Failure to pay sewer charges;

8. Failure to meet compliance schedules;

9. Failure to complete a wastewater survey or the wastewater contribution permit application;

10. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

11. Violation of any pretreatment standard or requirement, or any terms of the wastewater contribution permit of these rules and regulations.

Wastewater contribution permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater contribution permits issued to a particular user are void upon the issuance of a new wastewater contribution permit to that user.

Any violation of the terms and conditions of a wastewater contribution permit shall be deemed a violation of these rules and regulations and subjects the permittee to the enforcement outlined in Section 2-20 of these rules and regulations. Obtaining a wastewater contribution permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

C. Informal Notice of Violation.

This may take the form of a telephone call or personal contact to inform the user of a minor violation, seek an explanation, and remind the user that subsequent violations of the same type may be dealt with more severely. The notification shall be in a written form for record-keeping purposes.

D. Notice of Violation (NOV).

The NOV is a written notice that BMU has observed a violation, states the nature of the violation, and directs the noncompliance to be corrected. A statement will be included that additional enforcement action may be pursued if corrective actions are not taken. Within thirty (30) days of receipt of the notice, a plan for correction of the violation shall be submitted to BMU General Manager by the User. NOVs shall be sent certified mail with return receipt requested.

E. Administrative Order (AO).

The AO is a written notice stating the nature of the violation and listing compliance steps and schedule the user shall use to return to compliance. A statement will be included that additional enforcement action may be pursued if corrective actions are not taken. AOs shall be sent certified mail with return receipt requested.

F. Show Cause Hearing.

A Show Cause Hearing is a formal meeting requiring the User to appear, explain its noncompliance, and show cause as to why more severe enforcement actions against the user should not go forward. The meeting may also serve as a forum to discuss corrective action and compliance schedules.

G. Administrative Penalties.

An administrative penalty is a punitive monetary charge assessed by BMU General Manager rather than a court. The purpose of the penalty is to recover the economic benefit of noncompliance and to deter future violations. When assessing an administrative penalty the severity of the noncompliance should be considered.

H. Significant Noncompliance.

A user is in significant noncompliance if any of the following criteria apply:

1. Chronic violations of wastewater discharge limits, defined here as sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six-month period exceed, by any magnitude, a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(1).

2. Technical Review Criteria (TRC) violations, defined here as thirty-three percent (33%) or more of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable criteria (TRC = 1.4 for BOD, TSS, fats, oils, and grease, and 1.2 for all other pollutants except pH);

3. Any other violation of a pretreatment Standard or Requirement as defined by 40 CFR 403.3(1) (daily maximum, long term average, instantaneous limit, or narrative standard) that BMU determines has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);

4. Any discharge of pollutants that has caused imminent endangerment to human health, welfare or to the environment, or has resulted in BMU General Manager suspending sewer service as outlined in Section 2-20 A to halt or prevent such a discharge;

5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater contribution permit or enforcement order for starting construction, completing construction, or attaining final compliance;

6. Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

7. Failure to accurately report noncompliance;

8. Any other violation or group of violations, which may include a violation of Best Management Practices, which BMU General Manager determines will adversely affect the operation or implementation of the local pretreatment program;

BMU shall annually publish in the Brookings Daily Register newspaper a list of the users which were in significant noncompliance with applicable Pretreatment Requirements at any time during the twelve (12) previous months.

I. Injunctive Relief.

When BMU General Manager finds that a user has violated, or continues to violate, any provision of these rules and regulations, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, BMU General Manager may petition the Circuit Court of Brookings County through the Utilities Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by these rules and regulations on activities of the user. BMU General Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation.

A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against the user.

J. Civil Penalties.

A user who has violated, or continues to violate, any provision of these rules and regulations, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable for a civil penalty of one thousand dollars ($1000) per violation, per day, all in accordance with SDCL 9-19-21.

In addition, BMU General Manager may recover monetary damages incurred as the result of any violation, reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses.

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

Filing a suit for civil penalties shall not bar, or be a prerequisite for, taking any other action, including criminal prosecution, against a user.

K. Criminal Prosecution.

A user who willfully or negligently violates any provision of the rules and regulations under article 6, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a Class II misdemeanor. A Class II misdemeanor is punishable with up to a two hundred dollar ($200) fine and/or one (1) year in jail.

SECTION 3 CONNECTIONS TO MUNICIPAL SEWERS

Section 3-1 Connections - General

No person shall uncover, make any connections with or opening into, use, alter or disturb the POTW or appurtenance thereof without first obtaining approval from BMU. This section applies to any type of physical connection whatsoever to the sewer system.

A connection shall not allowed to any person for a connection to the Municipal sewer outside the city limits. Exceptions may be granted by the Utility Board on a case by case basis.

Sewers shall be constructed in accordance with the current editions of the Brookings Municipal Utilities Sanitary Sewer Collection Design Standards and Standard Specifications for Sanitary Sewer Main Construction.

In no case shall an excavation be made within the street right-of-way without first obtaining an excavation permit from the City Engineer.

Section 3-2 Sewer Main Extensions and Connections

Any person or persons desiring to connect any sanitary sewer main to the POTW shall be required to make a written application to BMU General Manager. This application to connect shall be made on a form provided by BMU and shall detail the area to be served, the size and kind of sewer pipe, the proposed sewer route, the point where such sewer is to be connected to the POTW together with such other additional information as may be required by BMU.

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If a sewer pipe larger than 8" in diameter is required by BMU, then the BMU shall pay the difference in the pipe material cost of construction over and above the cost of an 8" sewer pipe.

Section 3-3 Sewer Main Application for Extension and Connection – Approval by Municipal Utility Board

All Sewer Main Applications to extend and connect into the City sanitary sewer system shall be submitted to the Municipal Utility Board at the regular meeting following the application filing with the Utility. No connection of any sewer main shall be made to the POTW until the application has been approved by the Utility Board and any applicable fees paid.

Section 3-4 Sewer Main Maintenance

When a sewer main is connected with the POTW, constructed in accordance with BMU specifications and appropriately transferred to BMU, it shall then become a part of the sewer system of the Utility and shall be maintained by the Utilities. The Utility shall have sole control over any such sewer line.

Section 3-5 Sewer Main Extension Made by Brookings Municipal Utilities

Whenever it is desirable or necessary in the judgement of Brookings Municipal Utilities to extend sewer main of the POTW, and no application for such extension and connection has been made, Brookings Municipal Utilities may order and authorize such sewer main extension in any area of the City. Brookings Municipal Utilities shall be reimbursed for such extension and connection, including all labor and materials at the time the adjacent property owners apply for connection. Said property owners shall pay a fixed cost at such rate to be determined by Brookings Municipal Utilities based upon their ownership of frontage feet of property abutting the project.

Section 3-6 Sewer Service Connection

Before any individual building sewer service connection is made to the POTW, a sewer service tap request must be made to the Brookings Municipal Utilities at least twenty-four (24) hours before the tap is required. A tapping fee shall be paid to the Brookings Municipal Utilities and the Municipal Utilities shall make the required tap at the sewer main, shall furnish and install the proper size saddle fitting for such connection. All connections shall be made by the Municipal Utilities except as hereinafter provided, and shall be made on a 45 degree angle with the main in all cases where practical.

WASTEWATER SYSTEM

If a sewer service "Y" or a "T" connection is installed at an acceptable location during sewer main installation, Brookings Municipal Utilities need not make the above-described connection, and the tapping fee will not be charged.

Section 3-6-1. Owner to Pay Costs / Ownership

All costs and expenses incident to the installation and connection of the building sewer service shall be borne by the owner. The owner shall indemnify the Utility from any loss or damage that may directly or indirectly be occasioned by the installation of the sewer service.

Once installed, building sewer services remain owned by the property owner from the building to the connection location at the sewer main. Maintenance of building sewer service remains the property owner's responsibility.

Section 3-6-2 Separate Sewer Services Required

A separate and independent sewer service shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Under exceptional circumstances the Utilities Manager may waive the provision of this section.

Section 3-6-3 Mobile Homes

A. The building pad for mobile home court dwelling shall be a minimum elevation of 1 foot above that of a 100-year flood elevation. Sanitary sewer risers to accommodate mobile home court dwelling shall extend above the building pad as required.

Section 3-6-4 Excavation

All excavations required for the installation for a building sewer shall be open trench work unless otherwise approved by Brookings Municipal Utilities. Pipe laying, repairs and backfill shall be performed in accordance with municipal Utilities' specifications except that no backfill shall be placed until the work has been inspected.

WASTEWATER SYSTEM

Section 3-6-5 Connection

The connection of the building sewer service into the POTW shall be made at the "Y" branch if such branch available at a suitable location. If no properly located "Y" branch is available, the owner shall, at his expense, install a branch in the POTW at the locations specified by Brookings Municipal Utilities, using a "T" or "Y" saddle properly fitted and fastened in place, the work to be performed by Municipal Utility personnel.

Section 3-6-6 Notice to Inspector

Any plumber or person doing work under the provisions of this regulation shall, when work is prepared for inspection as provided in this regulation, notify Brookings Municipal Utilities that such inspection is requested, giving the location of premises and the time such work will be ready for inspection.

Section 3-6-7 Trap Installations

Grease, oil, and sand traps shall be installed by the Owner when Brookings Municipal Utilities determine they are necessary for the proper discharge of waste containing excessive amounts of grease, oil, and sand. In general, such traps are not anticipated at private homes or residences. All traps shall be of the type and capacity approved by Brookings Municipal Utilities and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil traps shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature.

Where installed, all grease, oil, and sand traps shall be maintained by the owner, at the owner's expense, in efficient operation at all times.

Section 3-6-8 Backflow Preventers Required

All new residential or commercial construction subsequent to March 1, 2019 shall have an interior sewer backflow preventer (backwater valve) installed in accordance with BMU Sanitary Sewer Collection Design Standards and City of Brookings Standard Specifications for Sanitary Sewer Main Construction. Backflow preventers shall be maintained by the owner, at the owner's expense, at all times.

WASTEWATER SYSTEM

SECTION 4 USE OF MUNICIPAL SEWERS

Section 4-1 Requirements For Sewer Use

It is unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the city, or in any area under the jurisdiction of the Utility, any human or animal excrement, garbage or other objectionable waste.

It is unlawful to discharge to any natural outlet within the city, or any area under the jurisdiction of the Utility, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these regulations.

Section 4-2 Owner Must Connect

The owner of all houses, buildings or properties used for human occupancy, employment, recreations or other purpose, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the Utility, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper municipal sewer in accordance with the provisions of this Article, within ninety (90) days after date of official notice to do so, provided that said municipal sewer is within two hundred feet (200') of the property line.

Section 4-3 Discharge of Surface Water and Ground Water

A. No person shall discharge or cause to be discharged any storm water, surface water, roof runoff, subsurface drainage, cooling water, or ground water into any sanitary sewer, except that the above-mentioned water may be pumped or drained into the sanitary sewer from October 15 through March 15.

No person shall make connections of roof downspouts, exterior foundation drains, areaway drains, or other sources or surface runoff or groundwater to a building drain which in turn is connected directly or indirectly to a public sanitary sewer.

If sump pumps are required for floor drains, the sump pump must be properly trapped and connected directly to the POTW.

WASTEWATER SYSTEM

All new residential or commercial construction, shall have a pump discharge installed and connected to a drainage facility other than the sanitary sewer, where there is a sump located for the purpose of drainage of surface or subsurface water

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers, or to a natural outlet approved by the Manager.

B. Whenever the Brookings Municipal Utilities finds that any users are in violation of the above section "A", the Utilities may serve upon such person:

1. Informal Notice: This may take the form of a telephone call or personal contact to inform the customer of the violation, remind the user of the discharge rules, and that Utility personnel will inspect the premises in ten days to see if corrective action has been taken. The notification shall be reduced to a written form for record keeping purposes.

2. Letter of Violation: If no correction action has been taken five days after the "informal notice", a written notice that the Utility has observed a violation and expects the noncompliance to be corrected. The customer shall have five days to respond to our request. The "letter of violation" shall be sent certified mail with return receipt requested.

3. Legal Proceedings: If there is no response received within five days after the "letter of violation" is sent, a final notice will be sent to the customer. A statement will be included that the Utility will file an official complaint with the City Attorney to begin prosecution. The "legal proceedings" letter shall be sent certified mail with return receipt requested.

C. If the customer will not allow entry for inspection, the following steps will be taken:

1. Informal Notice: This will be personal contact to inform the customer of the legal system in place that may be used to gaining entry and try to encourage them to give voluntary access. The notification shall be reduced to a written form for record keeping purposes.

2. Formal Visit: If the customer still refuses entry, a Utilities employee accompanied by a police officer will visit the premises to see if the customer will allow entry for inspection of discharge violation.

3. Search Warrant: If entry is not allowed with a formal visit, a written notice stating that Brookings Utilities will obtain a search warrant if Brookings Municipal Utilities is not allowed entry within three working days. The written notice shall be sent certified mail with return receipt requested.

Section 4-4 Damage

No person shall uncover or maliciously, willfully or negligently break, damage, destroy, deface or tamper with any structure, appurtenance or equipment which is a part of the POTW.

SECTION 5 FALSIFYING INFORMATION

No person shall make any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to these rules and regulations, nor shall falsify, tamper with, or render inaccurate any monitoring equipment or method required under these rules and regulations. Falsifying information shall be enforced in accordance with Section 2-20 Enforcement.

SECTION 6 CONFLICT

All other ordinances, rules and regulations inconsistent or conflicting with any part of these rules and regulations are hereby repealed to the extent of such inconsistency or conflict.

SECTION 7 EFFECTIVE DATE

These rules and regulations shall be in full force and effect immediately upon adoption by the Utility Board.

ARTICLE VII

RULES AND REGULATIONS GOVERNING CONNECTIONS TO AND THE USE OF THE BROOKINGS WATER SYSTEM

Section 1. Authority and Purpose

These rules and regulations are adopted by the Brookings Municipal Utilities Board, and are declared to be necessary for the efficient, economic, and safe operation of the protection of the health, safety and general welfare of the public in the Brookings area. They are intended to provide an adequate amount of potable water to the community through the regulation and control of connections to and use of the system and may be amended by the Utility Board pursuant to the Federal Safe Drinking Water Act and the State of South Dakota Drinking Water Regulations.

Section 2. General Provisions

Unless the context specifically indicates otherwise, the meaning of the terms used in this Article shall be defined in the State of South Dakota Plumbing Code as found in Title 36, Chapter 25 of South Dakota Codified Law, or acts amendatory thereof. For purposes of this article, the following terms shall be defined as follows:

(a) "Water Regulating Device" is a regulating valve or other device, the purpose of which is to limit the maximum use of water to a predetermined rate.

(b) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(c) "Pollutant" is a foreign agent introduced into the water system that will cause an aesthetic condition but not cause a health problem

(d) "Contaminant" is a foreign agent introduced into the water system that will cause a health problem is consumed.

Section 2-2. State of South Dakota Plumbing Code

All provisions of the State of South Dakota Plumbing Code as found in Article 36, Chapter 25, or acts amendatory thereof as said code relates to water, shall be established as a minimum code. The Utility Board may adopt more restrictive regulations as determined by the Utility Board.

WATER SYSTEM

Section 2-3. Water – Application for Service

(a) A property owner or his designated agent desiring water from the Utility water system shall make written application and pay applicable fees to Brookings Municipal Utilities describing the premises to be served, size of tap and size of meter desired, and the purpose for which desired, and shall accompany the application with the payment for the service connection charge.

(b) If the application is approved by BMU, a plumber having a license to do such work, as designated by the applicant, and such licensee shall do all the work necessary and furnish all materials and equipment necessary in doing all the excavating and putting in the service pipe, necessary corporation stops, curb stops and boxes and refilling the trench, all to the satisfaction of the Utilities or other designated utility employee. The trench shall not be backfilled until the service line is inspected and approved by the designated utility employee.

(c) The Utilities shall only tap or cause to be tapped, the distribution line. The service connection fee shall be the tapping fee and cost of the meter. The total service connection fee consists of the water main tap, corporation stop, and provides for the installation of the utility owned water meter. All other expenses shall be borne and paid for by the applicant. Tapping shall be conducted in conditions with ambient air temperature above 35 degrees Fahrenheit.

Section 2-4. Owner to Pay Costs

All costs and expenses for the installation and connection of the building service line shall be borne by the owner. The owner shall indemnify the Utility for any loss or damage that may be directly or indirectly caused by the installation of the building service line.

Once installed, building water services remain owned by the property owner from the building to the connection location at the water main. Maintenance of the building water service remains the property owner's responsibility.

Section 2-5. Water Meters

All water meters are to be assigned to the lot or acreage for which they are originally purchased. If a building or trailer house is relocated to a different lot within the City and that lot does or did not have a water meter provided for it, there will be a new water meter purchased for this lot.

WATER SYSTEM

Upon written application for water service, BMU shall provide a water meter for installation. Note BMU retains ownership of the meter at all times.

All service pipe, except that laid for fire purposes only, shall be supplied with a meter placed in a position safe from frost and other damage and accessible to examination. In case of breakage or stoppage of any meter, the consumer shall immediately give notice thereof to the Utilities.

Section 2-6. Backflow Prevention

The Utilities will require a backflow prevention device to be installed in any plumbing system existing prior to the adoption of these Rules and Regulations if any remodeling or changes are made to the same.

Any person or local government unit proposing to take water from the distribution system must install a backflow prevention device that meets the approval of the BMU General Manager. The backflow preventer is to be installed in a manner and location approved by the BMU General Manager.

If the above mentioned person or government unit is proposing to use water in such a manner as to possibly introduce a pollutant into the Utility water system then a double check valve assembly backflow preventer must be installed in the plumbing system of the premises.

The backflow preventer is to be owned, periodically tested, and maintained by the persons or government agency taking water from the system. Backflow preventer shall be accessible for inspection at all times.

Section 2-7. Separate Taps

A separate and independent water tap shall be required for every building, except where one building stands at the rear of another on an interior lot and no separate water line is available or can be constructed to the building through an adjoining alley, court, yard or driveway. A water line from the front building may be extended to the rear building and the whole considered as one water line, subject, however to the prior consent of the BMU General Manager.

Section 2-8. Distinct Premises

Existing service pipes intended to supply two or more distinct premises must be provided with separate corporation stops and curb stop and boxes for each premise on the street side of the sidewalk line; when only one corporation stop is used the person or persons controlling the same must pay the water rent of the parties who are thus supplied, as separate water rates will not be made without separate curbstops.

WATER SYSTEM

Section 2-9. Replacing Service Line or Repair of Service Line

In the event it is necessary to replace a service line, and a new water tap is required on the distribution line, the property owner requiring such new water tap shall be required to cut the service pipe of the old tap at the corporation stop and turn the corporation stop to the off position. The act of disconnecting such abandon service as herein required shall be performed at the time the new service is installed or within five days thereafter and in the presence of an authorized Utility employee.

In case of a leak in any private service line, the property owner must initiate the repair of said service line upon notice to repair same, said notice given by an authorized employee of the Utility, and if no action is taken to repair said service line after notification by the said Utility employee, the water service will either be repaired by the Utility with full charges made to the property owner, or discontinued. BMU shall coordinate with the property owner an appropriate response time subsequent to giving notice. In the event the leak is causing property damage, health and safety concerns, or other public interest concerns, BMU can require immediate property owner response or initiate immediate repair by the Utility.

Section 2-10. Expense of Repairs

Persons taking water from the distributing pipes must keep their service pipe and fixtures connected therewith in good repair and protected from frost at their own expense and must prevent all unnecessary waste or the water will be turned off. No abatement shall be allowed from the prices charged or agreed upon by reason of the breaking of the service pipe or corporation stop, and no claim shall be made against the City or any of its officers, by reason of the breaking; nor will the City, its Utility Board, or the BMU General Manager be responsible for the damage growing out of stoppage of said water or any insufficient supply of the same or as to quantity or quality of the water. All persons using the water from said waterworks for whatever purpose shall use the same at their own risk.

Section 2-11. Excavations

All excavations required for the installation of a building service line shall be open trench work unless otherwise approved by the BMU General Manager. Pipe laying and backfill shall be performed in accordance with Municipal Utilities Specifications except that no backfill shall be placed until the work has been inspected.

Section 2-12. Guarding Excavation

All excavation for building service lines shall be adequately guarded with barricades and light so as to protect the public from hazard. All Guard barricades and lights shall be furnished by the contractor. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored as per City Specifications.

WATER SYSTEM

Section 2-13. Notice to Inspector

Any plumber or person doing work under the provisions of this regulation shall, when work is prepared for inspection as provided in this regulation, notify the Utilities that such inspection is requested, giving the location of the premises, the time such work will be ready for inspection.

Section 2-14. Admission to Property

Whenever it shall be necessary for the purpose of these rules and regulations, the BMU General Manager and other authorized employees of the Utility may enter upon any property for the purpose of reading or maintenance of meters, obtaining information or conducting surveys or investigation. Entry shall be made during daylight or operating hours unless abnormal or emergency circumstances require otherwise. If entry needs to occur after daylight or operating hours, the above mentioned BMU General Manager or his agent shall give adequate notice to property owner or tenant before entering property.

Section 2-15. Inspection and Turning on Water

After the service line and curb stop have been installed, the Utility shall inspect the exposed line and turn on the corporation stop. Any adjustments that may be required shall be made by the Utility. The curbstop shall not be turned on except for testing purposes until the meter has been installed and work inspected by the BMU General Manager or his authorized representative and deemed satisfactory and in conformance with all rules. Only authorized Utility employees shall operate the curb stop, remove a water meter, or cut a seal on a water meter.

Section 2-16. Responsibility of Contractor

Adequate bond shall be furnished by all licensed plumbers so that workmanship and materials can be guaranteed for one (1) year.

If a leak should develop in a new service within one (1) year of its installation, the plumber installing the same shall be notified by the BMU General Manager to make the repair within five (5) days (provided emergency conditions do not dictate an immediate repair). If the repairs are not made by the specified date, the Utility shall make the necessary repairs and the original contractor shall be billed for labor, materials and fifteen percent (15%) overhead.

WATER SYSTEM

Section 2-17. Abandonment of Service

In case any water service pipe should have to be abandoned, the owner of the water service to be abandoned shall cut off the water service pipe at the corporation stop within five days after the water service has been discontinued, or the City of Brookings shall cause the same to be turned off, and the costs of turning off said service plus a penalty of ten percent (10%) of said costs shall be assessed to the property owner. There shall be no backfilling of the trench at the point which the water service has been turned off, until the corporation stop has been inspected by the BMU General Manager or his duly authorized agent.

Section 2-18. Repairing Main

The Utility reserves the right at any time to shut off the water on the main pipe for the purpose of repairing the same, making connections or extensions to the same, making connections or extensions to the same, or for the purpose of cleaning the same. It is expressly understood that no claim shall be made against the Utility by reason of the breaking of the service pipe, curbstop, or from any damage arising from the shutting off of the supply of water for the repairing, laying or relaying mains, or for hydrants, or other connections.

Section 2-19. Water for Fire Purposes

Whenever commercial/industrial customers wish to lay larger pipes with hydrants and hose couplings, to be used only in the case of fire, they will be permitted to connect with the street main at their own expense upon application for a permit to the Utility; and under the direction of the Governing Body will be allowed the use of water for fire purposes only, free of charge. But all such pipes must be provided with a suitable valve which must be sealed by the Utility and curbstop attached to the bottom of or inside the building. In case the seal is broken for the extinguishment of fire the party shall immediately give notice to the Utility. No stand pipe or water tank will be allowed on the premises.

Section 2-20. Taking Water from or Interfering with Public Hydrants

No person shall unscrew or take off any cap on any water hydrant, or in any way interfere with such hydrant, or take or carry away any water from any public hydrant, except the BMU General Manager or his agents and the Chief of Fire Department or his agent when in the line of duty.

Section 2-21. Restricting Use

The Utility reserves the right to at any time restrict the use of water from the Utility water system and to prevent the use of water from the Utility water system for purposes which, in the sole discretion of the BMU General Manager, may jeopardize the Utility's ability to meet its objectives of providing adequate amounts of potable water to the community and protecting the health, safety and general welfare of the community.

WATER SYSTEM

In the event that the Utility takes action to restrict the use of water from the Utility water system, water users whose water usage is metered through use of a specially designated irrigation meter shall be required to apply to the BMU General Manager or his designate for a watering permit which shall specify the times and such other conditions as may be warranted in the discretion of the BMU General Manager or his designate under which water may be used. The BMU General Manager or his designate shall, on a case by case basis, require large commercial properties whose irrigation systems do not lend themselves to regulation according to U.S postal address and who do not have an irrigation meter, to use water for irrigation purposes according to such restrictions as may be necessary to carry out the intent of this regulation.

Upon written application by the water user, or by direction of the Utility Board, the BMU General Manager or his designate may grant exception permits for uses of water otherwise prohibited hereby, if he finds and determines that the restrictions in this section are not warranted by weather conditions or would cause an unnecessary and undue economic or other hardship to the applicant or to the public.

Within five working days after receipt of an application for an exception permit, the BMU General Manager or his designate shall inform the applicant in writing of his decision. If the permit is refused, the reasons for refusing the permit shall be stated and any aggrieved party shall have the right to appeal in writing within ten calendar days to the Utility Board which shall consider the application under the standards for issuance and sustain or overrule the manager's decision within five calendar days. The decision of the Board shall be final.

The General Manager or his designate shall have the authority to revoke a permit upon a finding of violation of any Brookings Municipal Utility rule or Brookings City ordinance.

The provisions of this article shall apply to all persons using water and regardless of whether any person using water shall have a contract for water service with the city.

It shall be unlawful for any person to violate any of the provisions of this article. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under Section 1-8 of the Code of Ordinances of the City of Brookings. The BMU General Manager or his designate shall have the authority to enforce the provisions of this article by the discontinuance of water service for violation of this article. Brookings Municipal Utilities shall have available and furnish all records necessary to determine all usages of water restricted by this article.

WATER SYSTEM

The use of water from the Utility water system shall be restricted from June 1 and continuing to September 30 in accordance with the following: The use of water to irrigate, sprinkle or water lawns shall be allowed only on Monday, Wednesday, Friday and Sunday for properties whose U.S. postal address is an even number (e.g. 314), and only Tuesday, Thursday, Saturday and Sunday for properties whose U.S. postal address is an odd number (e.g. 609). This restriction on the usage of water shall be in effect until further action is taken by the Brookings Municipal Utilities Board.

Section 2-22. Water Main Extensions and Connections

Any owner or owners of real estate in the City of Brookings desiring to have BMU water mains extended to their respective property, shall be required to make written application to the BMU General Managers. This application to connect shall be on a form provided by BMU and detail the area to be served, the size and length of the proposed water main extension, the connection location to the existing system, and such other information as may be required by BMU.

If a water main larger than eight (8") inches in diameter is required by BMU for such water main extension, then BMU shall pay the difference in the pipe material cost of construction over and above the cost of an eight (8") inch water main.

Brookings Municipal Utilities shall furnish, at BMU's expense, the following materials to an authorized plumbing contractor. These materials will be installed according to BMU specifications and the cost will be paid as outlined below.

The Utility shall furnish the fire hydrant and the gasket and bolts to make a fire hydrant installation. The Applicant shall furnish and install the main line tee for the fire hydrant and the hydrant run, support blocks and dry well. The Applicant shall excavate and backfill for the hydrant, line, dry well, and support block and install the same.

The Utility shall furnish all water main shut-off valves without charge to the Applicant. These valves shall be installed by the Applicant.

The Utility shall furnish the blowoff fire hydrant at dead end mains as required. They shall be installed by the Applicant according to Utility specifications at the Applicant's expense. When the line is extended, this material shall be returned to the Utility.

Section 2-23. Water Main Application for Extension and Connection – Approval by Municipal Utility Board

All Water Main Applications to extend and connect into the City water system shall be submitted to the Municipal Utility Board at the regular meeting following the application filing with Utility. No connection of any water main shall be made until the application has been approved by the Utility Board and any applicable fees have been paid.

WATER SYSTEM

Section 2-24. Water Main Maintenance

When a water main is connected to the City water system, constructed in accordance with BMU specifications and appropriately transferred to BMU, it shall then become a part of the water system of the Utility and shall be maintained by the Utilities. The Utility will have sole control over any such water line.

Section 2-25. Water Main Installation

Water main installation shall be in accordance with the current edition of the Brookings Municipal Utilities Water Distribution Design Standards and Standard Specifications For Water Main Construction.

Section 2-26. Water Main Extension Made by Brookings Municipal Utilities

Whenever it is desirable or necessary in the judgement of the Board of the Municipal Utilities to extend or interconnect existing segments of the Utility water system, and no application for such extension or interconnection has been made to the Utility, the Municipal Utilities Board may order and authorize such extension or interconnection of the existing water main system in any area of the City of Brookings. The Utilities shall be reimbursed for such extension and interconnection, including all labor and materials at the time the adjacent property owners apply for connection. Said property owners shall pay a fixed cost at such a rate to be determined by the Brookings Municipal Utilities Board based upon their ownership of frontage feet of property abutting the project.

This section applies to any type of physical connection whatsoever to the water system.

Section 2-27. Fluoridation of Water

Prior to distribution, the Utility shall add fluoride to the water supply in accordance with South Dakota State Rule Chapter 74:04:01.

Section 2-28. Damage

No person shall uncover or maliciously, willfully, or negligently break, damage, destroy, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal water system. Any person doing damage to the municipal water system shall be required to pay for the entire cost of the damage.

WATER SYSTEM

Section 3

Water Department Charges

Section 3-1. Private Water Systems & Mobile Home Parks

Private Water Systems, including Mobile Home Parks, may be required to install a master meter. Construction of new privately owned systems after 2026 shall be required to install a master meter. Existing privately owned water systems may be required to install a master meter at BMU's sole discretion. Individual water meters downstream of the master meter may be allowed at BMU's sole discretion.

The total consumption of each individual meter shall be totaled, and that total will be compared to water consumption as registered on the master meter for the private water system as a whole, and in the event that the master meter exceeds the total of the individual meters, the private water system owner is to pay the difference at the then existing water rates.

The master meter will remain in the private water system owner's name or his agent, and will be read monthly. The minimum billing for the master meter will remain in effect.

Section 3-2. Water Department Vehicle Charges

Charges for water department vehicles and equipment shall be made in accordance with a rate schedule determined annually by the utility by examining local charges for similar vehicles and equipment.

Section 4

Administration

Section 4-1. Enforcement

The BMU General Manger shall be authorized to administer and enforce these rules and regulations except that no proceedings for the imposition of a penalty and cost recovery due to violations shall be instituted without prior approval of the Utility Board.

WATER SYSTEM

Section 4-2. Information

The BMU General Manager shall prescribe the form and detail of all applications, permits and reports required by these rules and regulations; may determine the frequency of such items except where a frequency is specified; and may provide interpretations or determine the application of these rules and regulations where their meaning or application is requested.

CITY OF BROOKINGS

RULES AND REGULATIONS GOVERNING THE MUNICIPAL UTILITIES

APPENDIX "A"

Listed below are the current codes and manuals which are being used as guidelines for the construction and operation of the Brookings Utility Departments.

ELECTRIC DEPARTMENT:
"National Electrical Code"; 1987 edition. Recommended by the National Fire Protection Association.

WATER DEPARTMENT:
"South Dakota State Plumbing Code"; 1987 edition. Adopted August 1987 by the South Dakota State Plumbing Board.
"A Guide for the Installation of Gray Cast Iron Water Mains"; copyright 1972. Published by Cast Iron Pipe Research Association.

WASTEWATER DEPARTMENT:
"South Dakota State Plumbing Code"; 1987 edition Adopted August 1987 by the South Dakota State Plumbing Board. "Clay Pipe Handbook of Pipe Laying and Inspection". Published by Clay Products Association; Barrington, Illinois.
"Standard Methods for the Examination of Water and Wastewater; 13th edition. Published jointly by American Public Health Association, American Water Works Association and Water Pollution Control Federation.