

WILLMAR

**Public Works Director**

City Office Building  
333 SW 6<sup>th</sup> Street  
Willmar, MN 56201  
Main Number 320-214-5160  
Fax Number 320-235-4917

**COUNCIL ACTION REQUEST**

**DATE:** November 29, 2016

**SUBJECT:** Delegated Wastewater Pretreatment Program Ordinance Amendment

**RECOMMENDATION:** It is respectfully requested the City Council consider the following recommendation:

Introduce the ordinance amending Willmar Municipal Code, Chapter 16, Utilities, Article III, Sanitary Sewer System, as required to implement the Delegated Wastewater Pretreatment Program and set a Public Hearing for December 19th.

**BACKGROUND:** The MPCA has proposed delegating responsibility for enforcement of pretreatment standards to the City. This requires City ordinances that provide legal authority in accordance with the pretreatment program for significant industrial users.

**FINANCIAL CONSIDERATION:** N/A

**LEGAL:** N/A

**Department/Responsible Party:** Sean E. Christensen, Public Works Director

**Reviewed By:** Michael McGuire, Interim City Administrator

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

AN ORDINANCE AMENDING WILLMAR MUNICIPAL CODE, CHAPTER 16, UTILITIES,  
ARTICLE III, SANITARY SEWER SYSTEM, AS REQUIRED TO IMPLEMENT  
DELEGATED WASTEWATER PRETREATMENT PROGRAM

The City Council of the City of Willmar hereby ordains as follows:

Section 1. AMENDMENT OF MUNICIPAL CODE, CHAPTER 16, UTILITIES,  
ARTICLE III, SANITARY SEWER SYSTEM, DIVISION 1, GENERALLY. Chapter 16,  
Article III, Division 1 of the Willmar Municipal Code is hereby amended to include a new  
Section 16-60 as follows:

**Sec. 16-60. - Control by authorized representative.**

The city administrator shall be the authorized representative under this article, who shall have control and general supervision of all public sewers and service connections in the city and shall be responsible for administering this article to ensure that a proper and efficient public sewer is maintained. The authorized representative may delegate responsibilities to designated representatives, any of whom may be referred to as "the representative."

**Secs. 16-6061—16-70. - Reserved.**

Section 2. AMENDMENT OF MUNICIPAL CODE, CHAPTER 16, UTILITIES,  
ARTICLE III, SANITARY SEWER SYSTEM, DIVISION 3, SEWER USE REGULATIONS.  
Chapter 16, Article III, Division 3 of the Willmar Municipal Code is hereby amended as follows  
(deleted material is crossed out; new material is underlined; sections and subsections not being  
amended are omitted):

**Sec. 16-86. - Definitions.**

\* \* \* \*

Industrial user means:

- (1) Any entity as defined in the Standard Industrial Classification Manual, latest edition, that discharges wastewater to the public sewer system.
- (2) Any user whose discharges, singly or by interaction with other wastes: contaminate the sludge of the wastewater treatment system, injure or interfere with the treatment process, create a public nuisance or hazard, have an adverse effect on the water's receiving wastewater treatment plant discharges, exceed normal domestic strength waste limitations, exceed normal residential unit volumes of wastewater.

\* \* \* \*

Pass through means a discharge that exits the WWTF into waters of the state in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of violating a requirement of any permit, rule, regulation or ordinance controlling, prohibiting, or limiting the release of pollutants from the WWTF into the environment, including an increase in the magnitude or duration of a violation.

\* \* \* \*

*Significant industrial user* means any industrial user of the wastewater treatment facility:

- (1) Whose discharge flow is in excess of twenty five thousand (25,000) gallons per average workday Who is subject to Categorical Pretreatment Standards under Title 40 CFR (Code of Federal Regulations), 40 CFR 403.6 and Title 40 CFR, Chapter I, subchapter N. Any industry that falls under these categories is considered a SIU whether or not it has process discharge to the collection system or wastewater treatment facilities; or
- (2) Who discharges 25,000 gallons per day or more of process wastewater to the collection system (excluding sanitary, noncontact cooling and boiler blow-down wastewater); or
- (2)(3) Whose discharge flow or organic loading exceeds five (5) percent of the treatment facility's capacity;
- (3)(4) Whose waste contains a toxic pollutant in toxic amounts pursuant to section 307(a) of the act; or
- (4)(5) Whose discharge has a significant effect, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality, or emissions generated by the treatment system; or
- (6) Who is designated as such by the City on the basis that the industrial user has a reasonable potential for adversely affecting the operation of the collection system or wastewater treatment facilities, or violating any pretreatment standard or requirement.

**Sec. 16-87. - Violation of division; penalty.**

- (a) *Notice of violation.* Any person, user or industrial user found in violation of this division or of any prohibition, limitation or requirement contained in this division, or of any condition of any permit issued by the city, including discharging in violation of any city order, prohibition, discharge limitation or pretreatment standard, or of any contractual agreement or wastewater discharge permit referred to in this division, will be served by the director of public works or WWTF superintendent or their representative with a written notice stating the nature of the violation and

providing a reasonable time limit for the satisfactory correction thereof. ~~The director of public works will endeavor to the full extent possible to eliminate or remedy such violation without resorting to further administrative proceedings.~~

(b) *Penalties; injunctive relief.*

- (1) Any person, user or industrial user who fails to remedy the violation within the time provided in the notice issued pursuant to subsection (a) or who fails to otherwise comply with any of the provisions of this division or with an order of the approving authority issued pursuant to this division, or who tampers with metering or sampling, shall be fined not less than \$1,000.00 for each offense and shall additionally be liable to the city for any expense, loss or damage occasioned by such violation, including reasonable attorneys' fees and other expenses of litigation. A person, user or industrial user convicted of any violation of this division shall be fined per violation, plus damages. Each day a condition is allowed to exist which is contrary to all or any part of this division shall constitute a new violation. Change of ownership or occupancy of premises delinquent under the provisions of this division shall not be cause for reducing or eliminating charges due and penalties for violations.
- (2) In addition to the court proceedings and penalties described in subsection (a) of this section, whenever a person, user or industrial user violates any provision of this division or fails to comply with any order of the approving authority, the approving authority may order that an action be commenced on behalf of the city in the ~~circuit~~ district court for the county, for the purpose of obtaining an injunction restraining the person violating the division or failing to comply with the order from making any further discharges into the wastewater treatment facilities of the city.

\* \* \* \*

**Sec. 16-88. - ~~Right of access~~ Powers and authority of inspectors.**

~~The city shall be permitted to gain access to such properties as may be necessary for the purpose of inspection, observation, measurement, sampling and testing, in accordance with provisions of this division.~~

- (a) Duly authorized city employees, bearing proper credentials and identification, shall be permitted to enter all properties for inspection, observations, measurement, sampling, testing, repair and maintenance in accordance with this article.
- (b) Industrial users shall be required to provide information concerning industrial processes which have a direct bearing on the type and source of

discharge to the public sanitary sewer system. An industry may withhold information considered confidential, provided that the industry must establish that the information in question might result in an advantage to competitors and that the industrial process considered confidential does not have deleterious results on the treatment process.

**Sec. 16-89. - Confidentiality of information.**

When requested by the user furnishing a report or permit application or questionnaire pursuant to Minn. Stat. § 116.075 and Minn. R. 7000.1300, as the same may be amended, the portions of the report or other document which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be available for use by the city or any state agency in judicial review or enforcement proceedings involving the person furnishing the report.

**Sec. 16-90. - Wastewater discharge permit required for certain users.**

(a) Significant Industrial Users and Industrial Users – Mandatory Permit Required. All significant industrial users and industrial users proposing to connect or to commence a new discharge to the City wastewater treatment facilities shall obtain a Significant Industrial User Wastewater Discharge Permit or an Industrial User Wastewater Treatment Permit, as applicable, before connecting to or discharging into the wastewater facilities. All existing significant industrial users or industrial users subject to National Categorical Pretreatment Standards connected to or discharging into the wastewater disposal system shall obtain a Wastewater Discharge Permit within 90 days after the effective date of this Ordinance. The City Administrator, acting in his or her official capacity for the City, or the authorized representative of the City Administrator, is authorized to issue permits to industrial users and significant industrial users. Permits for industrial users and significant industrial users shall spell out the limitations on strength, character, and volume of waste discharged by a specific user of the City wastewater treatment facilities.

(a)(b) Other Users required to have permit. A wastewater discharge permit is required under this section if a user's discharge into the city wastewater works has any of the following characteristics:

\* \* \* \*

[Subsequent paragraphs renumbered accordingly.]

(h) Special Agreement. No statement contained in this division shall prevent any special agreement or arrangement between the city and any industrial user. Industrial waste of unusual strength or character may be accepted by

the wastewater treatment facility for treatment, subject to permit issuance by the City, and adequate payment therefor by the SIU or industrial user, provided that the national categorical pretreatment standards and the city's NPDES and SDS permit limitations are not violated.

**Sec. 16-91. - Prohibited discharges to collection system.**

\* \* \* \*

(b) No user shall discharge or cause to be discharged to the collection system, either directly or indirectly, any of the following described wastes or wastewater:

- (1) Any liquid having a temperature higher than one hundred fifty four (150140) degrees Fahrenheit (6560 degrees Centigrade), or causing, individually or in combination with other wastewater, the influent at the treatment facilities to have a temperature exceeding 104 degrees Fahrenheit (40 degrees Celsius), or having heat in amounts which will be detrimental to biological activity in the treatment facilities.
- (2) Any solids, liquids or gases which, by themselves or by interaction with other substances, may cause fire, explosion or hazards, create toxic gases, vapors or fumes, or in any other way be injurious to persons or property involved in the operation or maintenance of the wastewater works.

\* \* \* \*

- (4) Any pollutant, including oxygen-demanding pollutants such as biochemical oxygen demand, released in a discharge at a flow rate or pollutant concentration that will cause interference with the proper operation of the wastewater works or pass-through at the WWTF.

*[Subsequent paragraphs renumbered accordingly.]*

\* \* \* \*

(f) If any discharge to the public sewers contains a substance or possesses a characteristic prohibited in subsections (a) and (b) of this section or which in the judgment of the WWTF superintendent may have a deleterious effect on the treatment facility or which creates a hazard or nuisance, the WWTF superintendent may:

- (1) Refuse to accept the discharge.

- (2) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to section 307(b) of the Federal Clean Water Act and all amendments thereof.
  - (3) Require control over the quantities and rates of discharge.
  - (4) Require payment to cover all the added costs of handling, treating, and disposing of wastes not covered by existing taxes or sewer charges and any other expenses incurred by the city, including but not limited to fines imposed on the city by any state or federal agency, as a result of such discharge.
- (g) If the representative permits the pretreatment or equalization of waste flows, the design, installation, maintenance and efficient operation of any necessary facilities and equipment shall be at the owner's expense and shall be subject to review and approval by the city pursuant to the issuance of an Industrial User Wastewater Discharge Permit and requirements of the state pollution control agency. Significant Industrial User Wastewater Discharge Permits shall include mass based limits for Pollutants of Concern.
- (h) No person, user or industrial user shall increase the use of process water or in any manner attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this section, the national categorical pretreatment standards, and any state or local requirement.
- (i) Wastes trucked or hauled to the WWTF shall be discharged only at a point designated by the WWTF superintendent.

**Sec. 16-92. - Accidental discharges.**

~~Any user who accidentally discharges wastes or wastewater prohibited under section 16-91 into the wastewater works or storm sewer shall immediately report such discharge to the WWTF superintendent.~~

- (a) Where required by the WWTF superintendent or public works director, users shall provide protection from an accidental discharge of substances regulated by this division. Any required facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans and operating procedures for such facilities shall be submitted to the representative for review and approval prior to construction of the facility. Approval of such plans and operating procedures shall not relieve the user of the responsibility to modify the facility as necessary to meet the requirements of this article nor of responsibility for accidental discharges of prohibited materials.

- (b) Users shall notify the representative immediately if a slug or accidental discharge of wastewater occurs in violation of this division. Notification may allow measures to be taken to minimize damage to the treatment facilities, but notification shall not relieve users of liability for any expense, loss or damage to the treatment facilities or for fines imposed on the city by any state or federal agency as a result of such a slug or accidental discharge.
  
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of the emergency notification procedure if a slug or accidental discharge occurs.

\* \* \* \*

**Sec. 16-94. - Control manholes.**

~~Every~~ Industrial users ~~discharging industrial wastes into the wastewater works~~ shall construct and maintain control manholes at their own expense in suitable and accessible positions on public property or easements, with such necessary meters and other testing equipment needed to facilitate the observation, measurement and sampling of all ~~his~~ their wastes or wastewater. Control manholes shall be located and constructed in a manner approved by the director of public works. Plans shall be submitted to the director of public works prior to construction. The control manhole shall be locked at all times and will be accessible to city personnel only for the purposes of flow measurement and sampling. Owners may, upon reasonable request, be granted access to the control manhole when the city's staff is on site to obtain samples, calibrate the flow meter or perform other service work in the control manhole.

**Sec. 16-95. - Industrial waste analysis.**

- (a) The city may require submission of laboratory analyses to illustrate compliance with this article and any special conditions for discharge established by the authorized representative or other responsible regulatory agency.
  
- (b) The city ~~will~~ may collect samples and perform laboratory tests at the owner's expense on industrial waste discharges as necessary to verify the quantity of flow and character and concentration of an industrial waste. The city's test results shall be used to determine the applicable surcharge. The provisions of this section do not preclude the owners from ordering testing and submitting results to the city for comparative and verification



purposes in the determination of applicable surcharges. Owners may request that the city split the samples in order that owners may order tests to be done at the owner's expense to compare with results obtained by the city.

[Subsequent paragraphs renumbered accordingly.]

\* \* \* \*

**Sec. 16-99. - Hearing process.**

- (a) Request for hearing. If any person is aggrieved by the decision of the authorized representative under this article, such person may request a hearing on the matter in writing. A hearing shall then be held before the city council or a hearing examiner as provided in this section and shall be open to the public.
- (b) Hearing date. Unless a written request for an extension of time is submitted to the city and is granted, the hearing shall be held no later than 30 calendar days after the date of service of the request for a hearing, exclusive of the date of such service. In any event, such hearing shall be held no later than 60 calendar days after the date of service of the request for a hearing, exclusive of the date of such service.
- (c) Hearing notice. The authorized representative shall mail notice of the hearing to the person requesting the hearing at least ten working days prior to the hearing. Such notice shall include the following:
  - (1) A statement of the date, time, place and nature of the hearing.
  - (2) A reference to the particular section, ordinance or rule involved.
- (d) Hearing examiner. The city council may, by resolution, appoint an individual, to be known as the hearing examiner, to conduct the hearing and to make findings of fact, conclusions and recommendations. After completion of the hearing, the hearing examiner shall submit the findings of fact, conclusions and recommendations to the city council in a written report, and the city council may either adopt, modify or reject the report.
- (e) Conduct and rules of hearing. Conduct and rules of the hearing shall be as follows:
  - (1) The person requesting the hearing may be represented by legal counsel. The city, the applicant, the licensee or the permittee and

any additional parties as determined by the city council or the hearing examiner shall present evidence. All testimony shall be sworn under oath. All parties shall have full opportunity to respond to and present evidence, cross examine witnesses, and present argument. The city council or the hearing examiner may also examine witnesses.

- (2) If the person requesting the hearing fails to appear at the hearing, the right to a public hearing before the city council or hearing examiner shall be forfeited.
- (3) The city shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is provided by law, and all findings of fact, conclusions, and decisions by the city council or findings of fact, conclusions and recommendations by the hearing examiner shall be based on the evidence presented and matters officially noticed.
- (4) All evidence which has probative value, including hearsay, may be admitted if it is the type of evidence on which prudent persons are accustomed to relying in the conduct of their serious affairs. Evidence which is incompetent, irrelevant, immaterial or unduly repetitious may be excluded. The hearing shall be confined to matters raised in the written notice of the hearing or in the written request for a hearing.
- (5) At the request of any party or on the initiative of the city council or hearing examiner, a prehearing conference shall be held. The prehearing conference shall be conducted by the hearing examiner, if the city council has chosen to use one, or by a designated representative of the city council. The prehearing conference shall be held no later than five working days before the hearing. The purpose of the prehearing conference is to:
  - a. Clarify the issues to be determined at the hearing;
  - b. Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party. The hearing examiner or representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction; and
  - c. Provide an opportunity for discovery of the full names and addresses of all witnesses who will be called at the hearing and a brief description of the facts and opinions to which each is expected to testify. If the names and addresses are

not known, the party shall describe them thoroughly by job duties and involvement with the facts at issue.

- (6) If a prehearing conference is held, evidence not divulged as provided in this subsection shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:
  - a. The evidence was not known to the party at the time of the prehearing conference; or
  - b. The evidence is in rebuttal to matters raised for the first time at or subsequent to the prehearing conference.

**Secs. 16-99100—16-125. - Reserved.**

Section 3. EFFECTIVE DATE. This ordinance shall be effective from and after its adoption and second publication.

Passed by the City Council of the City of Willmar this \_\_\_ day of \_\_\_\_\_, 2016.

ATTEST:

\_\_\_\_\_  
Judy Thompson, City Clerk

\_\_\_\_\_  
Marvin Calvin, Mayor

VOTE:     \_\_\_ AHMANN   \_\_\_ ANDERSON   \_\_\_ CHRISTIANSON  
\_\_\_ FAGERLIE   \_\_\_ JOHNSON   \_\_\_ MUESKE   \_\_\_ NELSEN   \_\_\_ PLOWMAN

This Ordinance introduced by Council Member: \_\_\_\_\_

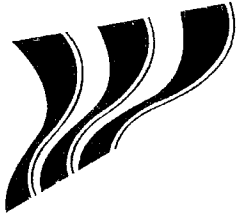
This Ordinance introduced on: \_\_\_\_\_

This Ordinance published on: \_\_\_\_\_

This Ordinance given a hearing on: \_\_\_\_\_

This Ordinance adopted on: \_\_\_\_\_

This Ordinance published on: \_\_\_\_\_



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**Public Works Director**

**City Office Building  
333 SW 6<sup>th</sup> Street  
Willmar, MN 56201  
Main Number 320-235-4913  
Fax Number 320-235-4917**

**COUNCIL ACTION REQUEST**

**DATE:** November 29, 2016

**SUBJECT:** Willmar Wye Update

**RECOMMENDATION:** It is respectfully recommended the City Council approve the following:

Staff seeks direction from Council regarding the parallel (siding) track and 1<sup>st</sup> Avenue at-grade crossing prior to the Master Agreement meeting on November 30<sup>th</sup>.

**DESCRIPTION:** Staff has continued to provide updates on the development of the Wye project in regards to environmental review and project negotiations. Bid letting on the \$50 million project is proposed for November of 2017, construction starting in the spring of 2018 and project completion proposed for the fall of 2020.

**FINANCIAL CONSIDERATIONS:** N/A

**LEGAL:** N/A

**DEPARTMENT/RESPONSIBLE PARTY:** Sean E. Christensen, Public Works Director

**REVIEWED BY:** Michael McGuire, Interim City Administrator