

Official Compilation of Codes, Rules and
Regulations of the State of New York

Title 21

Chapter XXX

NIAGARA FALLS WATER BOARD

REGULATIONS

Adopted August 28, 2003

PART 1950

WATER REGULATIONS

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1950.1 **Definitions.**

(a) Unless the context specifically indicates otherwise, the meaning of terms used in this part shall be as follows:

(1) *Acceptable backflow prevention device* means an air gap, reduced pressure zone device or double-check valve assembly, as used to contain potential contamination within a facility, acceptable to the director.

(2) *Act or water board act* means the Niagara Falls water authority act, codified as section 1230-a *et seq.* of Titles 10-B and 10-C of Article 5 of the New York State Public Authorities Law.

(3) *Aesthetically objectionable facility* means a facility in which substances are present which, if introduced into the public water supply system, could be a nuisance to other water customers but, would not adversely affect human health. Typical examples of such substances are: food grade dyes, hot water, stagnant water from fire lines in which no chemical additives are used, and similar substances as the director may determine from time to time.

(4) *Air gap separation* means a physical separation between the discharge end of a potable water supply and an open or nonpressure receiving vessel. An accepted air gap separation shall be at least double the diameter of the supply pipe measured vertically above the flood rim of the vessel, in no case less than one (1) inch.

(5) *Approved water supply* means any water supply approved by a public health agency of the state or its political subdivisions where the property serviced by such supply is located.

(6) *Backflow* means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended source. Back-siphonage is one type of backflow.

(7) *Back-siphonage* means backflow resulting from negative pressure in the distributing pipes of a potable water supply.

(8) *Board or water board* means the Niagara Falls water board established pursuant to section 1231-b of the water board act, and its directors, employees, agents, together with any authorized contractor or any other person acting with written authority on behalf of the board.

(9) *Board schedule of rates* means a schedule of rates, fees and other charges established at least annually and as modified from time to time by the water board.

(10) *Certified backflow prevention device tester* means a person who is examined annually by Niagara County health department and found competent for the testing of backflow prevention devices. He or she shall be provided with an appropriate identification card to be

renewed annually. Failure to perform his or her duty competently will result in withdrawal of such certification.

(11) *Check valve* means a self-closing device which is designed to permit the flow of fluids in one direction and to close if there is a reversal of flow.

(12) *City* means the city of Niagara Falls, New York, its employees and agents, together with any authorized contractor and any other person acting with written authority on behalf of the city.

(13) *Containment* means cross-connection control which isolates the user's entire facility from the public water system so as to provide the protection necessary to prevent contamination of the public water supply in the event of backflow from the user's facility.

(14) *Contamination* means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

(15) *Cross-connection* means any physical connection between a potable water supply and any waste pipe, soil pipe, sewer, drain, or any unapproved source or system. It includes any potable water supply outlet which is submerged or can be submerged in wastewater and/or any other source of contamination.

(16) *Director* and *department* mean, without other designation, the executive director of the water board, or other person or persons designated by the director to act in his or her stead, and the department of water facilities of the water board, respectively.

(17) *Double-check valve assembly* means an assembly of at least two independently acting acceptable check valves, including tightly closing shutoff valves located at each end of the assembly with suitable connections for testing the water tightness of each check valve.

(18) *Fine or penalty* means a sum of money or other thing of value imposed as a penalty for violation of these regulations.

(19) *Health hazard* means any conditions, devices, or practices in the water supply system and its operation which create or, in the judgment of the director may create a danger to the health and well-being of the user. An example of a health hazard is a structural defect in the water supply system whether of location, design, or construction that regularly or occasionally may prevent satisfactory purification of the water supply or cause it to be polluted from extraneous sources.

(20) *Person* means any natural person, firm, trustee, executor, personal representative, partnership, association, limited partnership, limited liability company, limited liability partnership, joint venture or corporation, or other legal entity whatsoever. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

(21) *Publicly owned treatment works or (P.O.T.W.)* means treatment works as defined by section 212 of the Clean Water Act (33 U.S.C. § 1292) which are owned or operated by the water board. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any sewers, pipes, conveyances and appurtenances that transport wastewater to or from the water board's treatment plant. For the purposes of these regulations, P.O.T.W. shall also include any sewers that transport wastewater to the P.O.T.W. from persons outside the water board's service area who are, by contract or agreement with the water board, users of the water board's publicly-owned treatment works.

(22) *Real cost* means total direct and indirect costs of labor, material, equipment and handling, including overhead costs.

(23) *Reduced pressure zone device or RPZ device* means a device containing a minimum of two independently acting check valves, together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow the pressure between these two checks shall be less than the upstream (supply) pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checks at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

(24) *Significant industrial user* means any person who:

- i) discharges wastewater subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N; or
- ii) discharges an average of 25,000 gallons per day, or more of process wastewater to the water board's publicly owned treatment works (POTW) (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the water board's POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the water board's POTW operation or for violating any pretreatment standard or requirement

(25) *State* means the state of New York.

(26) *Surge tank* means the receiving, nonpressure vessel forming part of the air gap separation between a potable and a supplemental supply.

(27) *User* means any person or property that receives or uses water from water facilities of the water board.

(28) *Water facility or water facilities or water supply system* means any plants, structures and other property, real, personal or mixed, acquired, rehabilitated, constructed or planned for the purpose of accumulating, storing, supplying, transmitting, treating or distributing water, including, but not limited to, surface or groundwater reservoirs, basins, dams, canals, aqueducts, aqueduct taps, standpipes, conduits, pipelines, interceptors, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, contract rights, franchises, approaches, connections, permits, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, storage, treatment or distribution of water.

(29) *Water - potable* means water free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the Niagara County health department and the state health department.

(30) *Water - supplemental* means any water source or system other than the public water supply that may be available in the building or premises.

(b) Federal Statutes and Regulations.

The following federal statutes and regulations have been referenced in this part:

(1) *40 CFR* means title 40 of the *Code of Federal Regulations* (Protection of the Environment), effective July 1, 2001.

(2) *FR* means *Federal Register*.

(3) *Clean Water Act* means the Federal Water Pollution Control Act or Clean Water Act, 33 USC 1251 *et seq.*, as amended.

(4) All United States publications referenced in this part are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(5) All material referenced in this part is available for copying and inspection at the water board's offices located at the Michael C. O'Laughlin Water Treatment Plant, 5815 Buffalo Avenue, Niagara Falls, New York 14304.

1950.2 **General Provisions.**

(a) The purpose of this part is to provide for the beneficial use of the water board's water facilities through the regulation of connection and water use, as well as to provide for the equitable recovery of the costs of the water facilities. This part shall apply within the corporate limits of the city and to persons outside the city who are, by contract or agreement with the water board, users of the water board's water facilities. The property within the city boundaries, and

persons or properties located outside the city who are users shall constitute the service area of the water board.

(b) The water board maintains its principal office at the Michael C. O’Laughlin Water Treatment Plant located at 5815 Buffalo Avenue, Niagara Falls, New York 14304. Unless otherwise provided or directed, all payments and communications to the water board shall be delivered to such office address.

(c) The headings and table of contents used herein are for convenience and reference only and shall not define, describe, limit or control the scope or meaning of the provisions of these regulations.

(d) The confidentiality of user information and data submitted as necessary for any application, record, report, plan, or other document required by these regulations shall be governed by the New York State Freedom of Information Law (sections 84 through 90 of the Public Officers Law of the State of New York) and by other applicable state or federal statutes and regulations. Any requests by a user to keep specific data and information confidential must be made in writing at the time of submission.

(e) If any provision, paragraph, word, section or article of these regulations is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

1950.3 Use Of Division Mains Mandatory.

(a) Every dwelling, house, or other building requiring the use of water must be supplied from the water mains of the water board through a separate service, provided that there is a permanent water main immediately in front, rear, or on-either side of the premises.

(b) If no water main is existent in the manner described, a temporary service may be laid from and connected to the nearest available water main until a permanent water main is installed, when such service must be disconnected from the temporary source and reconnected to the permanent water main within thirty (30) days from the date that water is available in the permanent main. Such disconnection and reconnection shall be made by and at the expense of the owner of the premises supplied, and under the supervision and subject to the written approval of the director.

1950.4 Conditions Of Use.

The supply of water to any person for any purpose whatsoever is subject to the following conditions:

(a) The water board does not guarantee to the user any fixed or constant pressure, nor a continuous supply, these being subject to the various conditions which may arise in the operation and maintenance of the water facilities.

(b) In case of failure of mains, service, pumping machinery, reservoirs or other equipment or through the cessation of operation of any pumps by virtue of the electric power being temporarily cut off or discontinued, or for the purpose of testing, extending, repairing or cleaning water mains, services, or pump and filter station equipment, the water may be shut off as found necessary by the director, without notice to users and no claim will be considered and the water board will not be liable for damage to service branches, boilers, machinery, plumbing or other fixtures, property or persons arising therefrom.

(c) The director shall have the right, upon reasonable notice, to enter and inspect any premises or any part of all premises using water provided by the water board, at any time that it may so desire. For this purpose, any water board employee or authorized contractor who may be designated by the director, upon exhibition of proper credentials or badges of the water board, at reasonable hours, shall have free access to such premises. When such access is refused, the water may be turned off at the option of the director, and not turned on again until a reactivation fee as identified in the board schedule of rates has been paid to water board.

1950.5 **Application For Water Service.**

(a) Applicants for water service shall make such deposits or payments and obtain permits as may be required according to the service rendered before the application will be granted. No work or improvements to supply water shall be performed prior to obtaining permits from the water board.

(b) Payment of the applicant for water service of any or all deposits, fees, or charges that are required by the water board and which are prerequisite to the granting of such applications shall be considered as sufficient evidence of agreement on the part of said applicant to conform and comply with each and every rule and regulation that has been or may in the future be enacted and which governs the granting of such application or the consequent sale of water by the water board.

(c) All applications for the use of water outside of the corporate limits of the city of shall be made to the director in writing. Such application shall state the name of the owner of the property for which supply is requested, and shall be accompanied by either the original or copies thereof of any granted permits that may be required by the state, county or township in which such property is situated. All such applications shall be reported by such director to the water board for such action as the water board deems proper. If the water board grants any such applications, they shall be subject to the provisions of this part and the water board may impose such additional conditions as it deems in the best interest of the water board.

(d) No water shall be supplied to any premises, the owner of which is indebted to the water board for services supplied, work completed or material furnished or in any other manner, until such indebtedness has been paid, whether that indebtedness was incurred at the premises for which service is supplied, or contracted at any other place within or without the city.

1950.6 **Service Branches.**

(a) Property owners desiring water service branches laid to their premises shall make written application for such branches at the water board. Such application when fully executed constitutes an agreement that the property to be supplied is to be held liable for all charges for water consumed and any other indebtedness.

(b) Applications for service branches shall be made by a plumber licensed by the city or by the owner of the premises. In the latter case, the name of the licensed plumber who will do the work must be specified. All applications for new service shall be accompanied by the payment in full of all service line material to be furnished by the water board.

(c) Service branches less than two (2) inches in size shall be attached to the water mains by means of a corporation cock(s) and tailpiece(s) supplied by the water board to the person making the application.

(d) The main water supply or water service from the water board water main to a point inside of the street curb shall be of type "K" annealed copper tubing.

(e) Service connections to the water board's water main are normally to be tapped on the top of the main and an arm running parallel with the main installed and blocked up with brick or stone. The copper service must be placed in a deep shelf on the side of the trench so that the copper pipe can be covered with at least six (6) inches of earth. The copper service from the main to the curb cock is to be made with a minimum number of flared connections, except the 1-1/2" and 2" sizes may have one 90-degree elbow and one coupling with soldered joints.

(f) All service branches larger than two (2) inches shall be of cast or ductile iron.

(g) Every service branch must be provided with a curb cock or valve protected by a curb box or valve box set just inside the curb line for the purpose of turning water either on or off.

(h) Whenever possible, service branches shall be laid in a direct line from the street main to the curb box and at right angles to the curb. They shall be laid at a minimum depth of four (4) feet. Any exception must be approved by the director.

(i) Service branches may be laid in the same trench as the sewer lateral, provided they are placed upon a trench shelf and above the sewer line.

(j) All service branches from the main to the building must be laid by a licensed plumber or a competent employee under the supervision of a licensed plumber. The water board shall do no work except insertion of a corporation cock or the installation of a tapping sleeve and valve with the necessary valve box.

(k) All water service pipes are considered the property of the property owner and as such, said owner shall be responsible for any leakage which may occur between the curb cock

and the building supplied, and it shall be the responsibility of such property owner to maintain such service pipe in a non-leaking condition at all times and at his own expense.

(l) The water board, at its own expense, shall repair, replace and otherwise maintain, except for thawing, that part of the water service pipe located between the water main in the street and the curb cock, otherwise known as the curb stop, including such curb cock and the protecting curb box whenever, in its judgment, such repair, replacement or other maintenance is necessary, provided that such service pipe is not more than two (2) inches in diameter and that the property supplied is situated within the corporate limits of the city.

(m) The thawing of all frozen water services is the responsibility of the property owner.

(n) When a leak is discovered in a service branch between the curb box and the building supplied, a written notice shall be mailed or delivered to the property owner informing him or her of the existence of such leak. Failure of the property owner to repair such leak within five (5) days of the date that such notice is mailed, shall be deemed sufficient cause for the water board to discontinue the supply of water through such service until such leak is repaired. Services temporarily discontinued in this manner shall not be restored until the leak is repaired and a reactivation fee as identified in the board schedule of rates is paid to the water board.

(o) The cost of removal and capping at the corporation cock when discontinuing service shall be paid for by the owner, whether done at his request or by order of the director, at real cost.

(p) Any service line where water service has been terminated at the request of the owner shall be considered inactive if service is not restored within two years from the removal of the water meter. After two years, the service line shall be deemed abandoned and the director may require replacement of the service line to re-establish water service.

1950.7 **Water Meters.**

(a) Water shall be furnished to all users through metered services only, except as otherwise provided in this part.

(b) The supply of water through separate service must be recorded by one meter only. If additional meters are desired for recording the subdivision of such supply, they must be furnished and set by the owners or users at their own expense. Furthermore, the water board shall not be required to read such meters nor to subdivide water bills in view of the existence of such subdividing meters.

(c) All water meters installed after August 1, 1988, including remote reading devices, shall be purchased by the water board and shall remain the property of the water board. All costs of inspection, testing and installation, where applicable, shall be borne by the water board and shall be recovered through the establishment of equitable rates and charges for water service.

(d) Water meters shall not be removed from one service to another except by the water board. The water board reserves the right to remove and replace any meter at the director's determination. Meters shall be tested and repaired as necessary by the water board.

(e) Water meters less than two (2) inches in size shall be placed inside the basement wall or indoors whenever possible. When it is necessary to install a water meter in any other location, a water control structure of such size and construction as is approved by the director must be provided and paid for by the owner of the property served thereby.

(f) Water meters less than two (2) inches in size shall be installed by the water board only, and the cost of such installation shall be borne by the water board. A place must be provided by the owner where such meters and remote reading devices will be protected from frost and other damage and in readily accessible locations for reading, examination, repair and removal. A brass "stop and waste" type valve must be provided just ahead of, and on the supply side of the meter.

(g) Unless otherwise permitted by the director, meters of two-inch (2") size or larger must be placed inside a building or in a water control structure of such design and dimensions, and at such a location, as is approved by the director. Meter assemblies must be protected from frost and other damage, and be readily accessible for reading, examination, testing, repair and removal. The property owner is responsible for the construction or modification of all required structures, piping, and appurtenances, including the provision of approved backflow prevention, required by the water board. The water meter shall be provided by the water board and shall remain the property of the water board.

(h) Installation or replacement of water meters two (2) inches in size or larger shall be performed at the water board's option, either by the water board at real cost to the property owner, or by the property owner or his contractor subject to all requirements of the water board.

(i) All water meters two (2) inches in size or larger must be provided with a suitable by-pass of such size as will provide a continuous supply of water during such time as the water meter is undergoing repairs, testing or replacement. The property owner shall be billed for meter testing with the first water bill rendered after the date of such test.

(j) A suitable check and relief valve may be required by the director in the service pipe after the meter, at the property owner's expense, when there is a possibility of hot water backing up into the water meter.

(k) Each application for a water or fire service which is two (2) inches in size or larger must be accompanied by five (5) copies of a detailed dimensional plan, drawn to scale, and acceptable to the director, which must show the exact manner of installation of the service, including an acceptable backflow prevention device, and the water meter, if applicable.

(l) The director is hereby authorized to make such determinations or interpretations of these regulations and specifications regarding the installation of water meters as are deemed

necessary by the director. Prints of the standard type of water control structure installations and by-passes acceptable to the water board are available upon request.

(m) Whenever a service is to interconnect in any manner with any other supply of water, a separate detail of such interconnection must be clearly shown. Such interconnection must comply with requirements of the state Department of Health Sanitary Code. The application for any interconnected service as heretofore described shall not be granted nor any connection made to any water main until the plan of installation has been approved by the director, the Niagara County Health Department, and the state Department of Health.

(n) All water meters and by-pass valves shall be sealed by the water board when they are placed in service. Such seals shall not be removed except by the water board unless permission is first obtained in writing from the director. If a broken seal is discovered by the water board, for which permission was not obtained, a violation of this part will be presumed, resulting in appropriate enforcement action by the water board in accordance with this part.

(o) It shall be the duty of the property owner to report to the water board any broken or missing seals, including meter seals. If the director determines that the seal was broken accidentally, then the water board shall set a new seal, without charge or other enforcement action.

(p) The water board reserves the right to enter, at any reasonable time, and with reasonable notice, any premises where a water meter is installed, for the purpose of testing, examining, repairing, removing, replacing or modifying such meter and its appurtenances when, in the opinion of the director, such action is necessary.

(q) The water board shall repair, without cost to the property owner, any water board-owned water meter located on a water service within the city corporate limits, provided that such meter has not been damaged by freezing, hot water or other act or omission by the property owner. If the property owner or his agent, employees, or tenants are determined to be responsible for damages by the director, then the real cost of repairing or replacing the water meter and/or remote reading device shall be borne by said property owner.

(r) Water meters may be tested by the water board periodically. The costs of all such testing shall be borne by the water board.

(s) A meter may be tested at the request of a property owner without charge if the test reveals that the meter is not within the limits of accuracy as determined by the director. The director may rely upon the standards of the American Water Works Association or such other similar standards as he or she deems appropriate. For a water meter less than two (2) inches in size, a small meter testing fee as identified in the board schedule of rates will be charged if the meter is found to be within the limits of accuracy. For meters two (2) inches in size or larger, the real cost of requested testing shall be paid by the property owner.

1950.8 **Water Rates And Bills.**

(a) All users shall pay and shall be liable to pay the water board such fees, rates and other charges as the water board may establish from time to time in accordance with and pursuant to the authority in the water board act. A schedule of such fees, rates and charges are set forth in section 1950.20 herein.

(b) For the purpose of billing users for the consumption shown by the water meter, the demand charges, and for the delivery of water bills, the following districts shall be established and shall be known as meter districts:

(1) District 1. Beginning at the Niagara River and the East line of Hyde Park Boulevard to the Northeast corner of Hyde Park Boulevard and Pine Avenue (Niagara Falls Boulevard), thence East along the North side of Pine Avenue (Niagara Falls Boulevard) to the Easterly city line (56th St. Extended), thence North along the Easterly city line (56th St. Extended), to the South side of Pierce Avenue produced Easterly to said city line; thence West along the South side of Pierce Avenue but not to include any portion of Pierce Avenue to the top of the high bank of the Niagara River, thence along the contour of such South and East to the point of beginning.

(2) District 2. Beginning at the Niagara River and the East side of Hyde Park Boulevard to the northeast corner of Hyde Park Boulevard and Pine Avenue (Niagara Falls Boulevard), thence East along the North side of Pine Avenue (Niagara Falls Boulevard) to Fifty-sixth (56th) Street, thence Easterly along said North city line to the Easterly city line; thence in a Southerly direction along said Easterly city line; thence in a Westerly direction along the contour of the bank of such river to the point of beginning.

(3) District 3. Beginning at the Niagara River and at the South side of Pierce Avenue; thence North and East along the top of the high bank of said river to the North city line; thence East along the said North city line to the Northeast corner of Garfield Avenue and Hyde Park Boulevard; thence South along the East side of Hyde Park Boulevard to the Northeast corner of the Lockport Road; thence East along the said East city line to the South line of Pierce Avenue; thence East along the prolongation of the South line of Pierce Avenue to the point of beginning.

(c) Bills for the consumption of water in the various districts shall become due on the first day of the following months and in accordance with the following schedule:

District 1.	January, April, July, October
District 2.	February, May, August, November
District 3.	March, June, September, December
Nonresident	February, May, August, November

(1) Charges for the consumption of water by those consumers classified as a significant industrial user shall be billed on a monthly basis by the water board. The first and second monthly billings in each quarter shall be estimated and shall be one-third (1/3) of the total

billing in the immediately preceding quarter. The third monthly bill in each quarter shall be based upon actual metered readings of water consumption for that quarter and shall reflect adjustments for the estimated billings in that quarter.

(2) The owner of the premises or user, as the case may be, supplied through the water meter shall be held responsible for all water registered by it and no reduction in bills rendered shall be allowed for leakage or when part of the water has been used by a contractor, or by any other person.

(d) All water bills shall be payable when due. They shall be mailed or delivered to the property owner or user, as the case may be, as a matter of convenience. Failure of a property owner or user, as the case may be, to receive a water bill shall not release the property owner from the payment of such bill together with any fee or penalty which may accrue or become existent by virtue of non-receipt of bill.

(e) Such water bills shall constitute a lien upon the real property upon which or in connection with which the water is used, which lien shall be prior and superior to every other lien or claim except the lien of an existing tax, assessment or other charge imposed by or for the state or a political subdivision or district thereof.

(f) Upon written notice of a property owner, the water board shall mail or deliver, as it may elect, water bills to the tenant or user of the premises. However, in doing so, the water board shall not be responsible for the failure of the tenant or user to receive such bill.

(g) Bills due the water board for water consumption, demand charges, or any other service, if not paid within twenty (20) days from the date of issue, shall be subject to a penalty of six percent (6%) per quarter on the unpaid balance such penalty to be collected together with the amount of the bill.

(h) Whenever a property is receiving water from the water board and is without a water meter, the water board shall bill the property owner or user, as the case may be, for an estimated reasonable amount of water during the time that the property has been occupied without a meter.

(i) When a water meter is found to be not registering or is stopped, the consumption shall be estimated according to the consumption for similar occupancies and a bill rendered for such estimated consumption. The fact that the bill has been estimated shall be indicated on the bill.

(j) When it is impossible or impractical to obtain a regular quarterly reading of any meter for any reason, the consumption shall be estimated according to the consumption for similar occupancies and a bill rendered for such estimated consumption. The fact that the bill has been estimated shall be indicated on the bill.

(k) Any water account of any nature remaining unpaid on September 30th of each year, shall be placed upon the first general city tax roll made up after such date, should the water

board be unable to make collection in any manner other than civil action. If placed upon the tax roll, a water account shall become a part of said tax roll and shall become due with the same and shall be subject to the same penalties and interest as such taxes imposed or levied by the city.

(l) Complaints of overcharge on water bills must be made on or before the 16th day of the month in which such bills are rendered and all water bills against which no claim has been made within such time set forth above shall be considered correct and must be paid in the amount rendered.

(m) When property becomes vacant, upon receipt of written notice from the owner of the same, the water board shall, at its option, remove the water meter and/or seal the service in a manner that will prevent any possibility of water usage without charge. An availability charge will be applied as set forth in the board schedule of rates to the account on a quarterly basis during the time the property remains vacant and the foregoing provisions are in effect. A meter so removed will be replaced by the water board upon payment of an account re-establishment fee as set forth in the board schedule of rates, when the property is reoccupied. the foregoing provisions are fully complied with.

(n) The billing charge on any building permanently demolished shall be discontinued when conclusive proof of demolition is presented to the water board and upon payment of any existing bills up to the date of such demolition including the cost of capping at the corporation cock. Any account wherein the building is demolished and the service not properly removed from the main shall continue to receive a regular billing charge until the service is capped at the corporation stop.

(o) Water bills shall not be rendered otherwise than quarterly, and in the full amount due for all of the water consumed for the full quarter as registered by the water meter except as otherwise provided herein.

(p) Persons purchasing or otherwise acquiring property shall make arrangements with the seller or transferor of such property regarding any settlement for the partial payment for water consumed during any portion of any quarter.

(q) Persons requesting a meter reading and bill at any time other than when scheduled by the water board shall pay a final read fee as set forth in the board schedule of rates, which fee will be added to the water bill.

(r) In the event that a property owner or user fails to pay his or her water charges, after they become due and payable, the water board may discontinue or disconnect the supply of water for non-payment of such water charges after the water board gives written notice of its intention to do so, upon fifteen (15) days in advance, to the owner of the premises or user thereby affected, or in lieu thereof, to the person to whom or which the last preceding bill has been rendered, and from whom or which the water board has received payment therefor, and to the superintendent or other person, if any, in charge of the building or premises thereby affected, if it can be readily ascertained that there is such superintendent or other person in charge. Such

notice in every case shall be served either personally on the person to whom or which it is directed, or by mailing such notice in a postpaid wrapper to the address of such person.

(s) The water board shall not effect the discontinuance of water service to a residential user for non-payment of bills rendered for water service on Friday after twelve noon, Saturday, Sunday, public holiday, or a day on which the main business office of the water board is not open for business. The term public holiday refers to those holidays enumerated in the state general construction law.

(t) Discontinuance for non-payment of bills rendered for water service of residential services can only take place between Monday and Thursday between the hours of eight a.m. and six p.m. and Fridays, before twelve noon.

1950.9 **Free Water.**

(a) There will be no free water furnished to any user or person, including but not limited to a local hospital, the city or any other municipality, district, state agency or any division thereof.

1950.10 **Temporary Use Of Water and Water For Construction.**

(a) A tapping application shall be required for erecting, construction, altering or maintaining any building or structure or for any purpose whatsoever that requires the temporary use of water. Such application shall be obtained with the building permit and with full payment of all tapping fees as set forth in the board schedule of rates.

(b) Water for construction purposes may be obtained from any metered service in lieu of payment required by subdivision (a) of this section, provided that permission of the owner of such services is first obtained. Such owner shall be held liable for all water obtained in this manner. If water is to be obtained from a metered service, it must be so stated on the application for a building permit, together with the street address of such metered service.

(c) Water for construction purposes must be paid for at regular rates set forth in the board schedule of rates, regardless of whether it is used on city public works or private works.

1950.11 **Water Taps And Charges.**

(a) Application for taps must be made twenty-four (24) hours in advance of the time that such tap is required. The time that the excavation will be ready must be stated in the tap application.

(b) Taps in water mains within the city limits will be made at the real cost determined by the director. Taps in water mains outside the city limits will be made at twice the inside-city real cost determined by the director. At least once each year the director shall advise the water board as to the real cost of making various sizes of taps.

(c) All excavations made for the insertion of corporation stops in the water main must be large enough to permit proper operation of the tapping machine. The required size shall be determined by the director under whose direction the tap will be made.

(d) Upon request, the director shall furnish an estimate of the real cost of making a connection two (2) inches in diameter or above to any of its mains. Such estimate shall include only those real costs which would be incurred by the water board.

1950.12 **Excavation Permits.**

Permits must be obtained from the city engineer's office before any excavation is undertaken in any city street or margin to install or repair service branches. Such permission shall not be given to any person, other than a person who is properly bonded to protect persons and property against any injury liable to be caused by reason of such excavation.

1950.13 **Tampering With Mains, Pipes, Hydrants Or Meter Installations.**

(a) No person, other than an employee or authorized contractor of the water board shall open, close or interfere in any manner with any valve, or gate in any water main or street pipe belonging to the water board without special written permission of the director.

(b) No person, except as authorized by the water board or the director may operate a fire hydrant or attempt to modify a water meter, installation.

1950.14 **Use Of Fire Hydrants.**

(a) No person shall open, carry from or tamper in any manner with a fire hydrant connected to water board mains, unless a written permit is obtained from the director. However, this does not apply to employees of the city's fire department engaged in the pursuit of regular duties.

(b) The director shall be notified within twenty-four (24) hours of the use of any hydrant by the city fire department.

(c) Wrenches, other than hydrant wrenches acceptable to the director, must not be used for the operation of fire hydrants. The use of any other type of wrench shall be considered sufficient cause for cancellation of any permit issued and for the imposition of a fine equal to the real cost to cover repairs or replacement.

(d) The general use of hydrants for construction purposes will be restricted when a service line to a building or structure will eventually be required. All hydrant use other than fire fighting purposes requires a valid hydrant permit and the use of a water board certified meter-backflow hydrant assembly. When a hydrant is being used under permit, regular reducing couplings attached to the nozzle of the hydrant and equipped with an independent valve for regulating flow shall be used. The main valve of such hydrant must be opened fully at the beginning of each workday and remain open until the finish of work on that day, when it shall be completely closed.

(e) A hydrant flow test service charge as identified in the board schedule of rates, payable in advance to the water board, shall be assessed for hydrant flow tests performed by the water board.

(f) In obtaining water from a fire hydrant in conformity with the foregoing subdivisions, no leakage will be tolerated. The hydrant permit shall be rescinded for any violation and appropriate fees for damage will be assessed.

(g) No person shall obstruct access to any fire hydrant in any manner whatsoever, without the written approval of the director.

1950.15 **Charges For Fire Protection.**

(a) Except where fire flows are metered together with normal water service to a water customer, no charge shall be made for the actual use of water for fire protection purposes. Availability charges for fire protection shall be as hereinafter set forth.

(b) The availability charge for each public fire hydrant inside the city boundary shall be twenty-five dollars (\$25.00) per year, payable by the city fire department to the water board.

(c) The availability charge for each public fire hydrant located outside the city boundary shall be one hundred fifty dollars (\$150) per year, payable in advance to the water board.

(d) The availability charge for service to private fire protection services inside the city boundary shall be the annual amounts as identified in the board schedule of rates, payable in advance, based on the nominal diameter of each service at its point of connection to the water board main.

(e) The availability charge for service to private fire protection services located outside the city boundary shall be 200 percent of the fee chargeable for similar service inside the city boundary.

(f) The requirement that meters shall be installed on all service branches shall be waived in the case of service branches intended for fire protection only. However, a detector check valve is required on fire protection lines.

(g) Water may not be used from service that has a detector check valve, except for fire protection.

(h) A detector check valve to indicate when water has been used shall be installed on all fire services in a building with ten (10) or more rooms rented or hired out to be occupied for sleeping purposes.

(i) Plans for fire protection installations in multiple dwellings must be approved by the city building inspector and the city fire department before approval by the director.

(j) All fire protection branches must be provided with a valve between the street main and the building or private fire line supplied with water.

(k) The water board shall place its seal upon any opening or valve connected with or to any fire protection service branch to seal such valve either open or closed.

(l) When a water board seal is broken, either accidentally or in order to obtain water for fire protection, the director must be notified immediately by the person breaking the seal or by any employee of the water board having knowledge thereof. A new seal will then be set and so recorded.

1950.16 **Requirements For Plumbers.**

(a) No person other than a duly licensed plumber shall do any plumbing in connection with any attachment to the mains of the water board without the written permission of the director, except as otherwise provided in this part.

(b) Any attachments to the water board main shall comply with the rules and regulations of the water board and the plumbing code of the city.

(c) Curb boxes and valve boxes on services shall be kept uncovered and readily accessible during construction or repair work.

(d) When plumbing work is completed in any new building, a space suitable for the installation of a water meter shall be provided and water shut off.

(e) The installation of nipples and a union in order that water may be obtained to test the plumbing will be allowed. Such nipples and unions shall be removed after such tests are completed and the director is notified.

(f) No person shall break a water board seal nor disconnect or remove a water meter without obtaining the approval of the director.

(g) No licensed plumber nor any other person shall make any attachment to any pipe or other fixture until written approval has been obtained from the director.

(h) No plumber or other person shall alter in any way the service branch pipes attached to the waterworks mains without written approval of the director.

(i) No plumber or other person shall make an attachment to any service branch or other pipe in such a manner that the water passing through such an attachment is not registered by the water meter.

(j) No person shall, by means of false keys or other means, cause or suffer any premises to be supplied with water after the water supply has been disconnected by the water board.

(k) All cast or ductile iron water services, after pressure testing to 150 pounds per square inch, shall be chlorinated by the water board with reference to time and place of such chlorination. Points for the application of chlorine and subsequent drainage shall be determined by the director and provided by the plumber or contractor. No water shall be provided through such service until results of chlorination have been approved by the director.

(l) Bills shall be rendered to the plumber or contractor at the real cost to the water board.

1950.17 **Cross-Connection Prevention Program.**

(a) The water board policy is to protect the public water supply against actual or potential cross-connections by isolating within the premises contamination that may occur because of some undiscovered, or unauthorized cross-connection of the premises. This policy incorporates the elimination of existing connections between drinking water systems and other sources of water that are not approved as safe and potable for human consumption. The policy also encompasses the elimination of cross-connections between drinking water supply. The policy extends to the prevention of the making of cross-connections in the future. The policy encourages the exclusive use of public sources of water supply.

(b) Except when the water board determines that no significant hazard is posed by the premises served, the water board shall take such actions as it deems necessary and appropriate to protect the public water system from existing or potential contamination by containing within or limiting the existing or potential contamination to the premises or the user including, but not limited to:

(1) By requiring an acceptable air gap, reduced pressure zone device, double-check valve assembly or equivalent protective device acceptable to the director consistent with the degree of hazard posed by the premises served by the connection;

(2) By requiring the users of such connections to submit plans for the installation of protective devices, to the supplier of water and the state for approval. Such submission shall be accompanied with a plan review fee as identified in the board schedule of rates; and

(3) By assuring that all protective devices be inspected and tested at least annually by the user. The records of such inspections and tests shall be made available to and maintained by the water board.

(c) The water board shall not allow a user to establish a separate source of water. However, if the user justifies the need for a separate source of water, the water board shall take such action as it deems necessary and appropriate to protect the public water system from a user

who has a separate source of water and does not pose a hazard as provided in this subdivision, including, but not limited to:

(1) By requiring the user to regularly examine the separate water source as to its quality;

(2) By reviewing and approving the use of only those separate water sources which are properly developed, constructed, protected, and found to meet the requirements of the state health code. Applicants shall submit plans for construction thereof to the director together with an a plan review fee as identified in the board schedule of rates; and

(3) By filing such approvals with the water board annually.

(d) All users of public water system shall prevent cross-connections between the potable water piping system and any other piping system within the premises.

(e) The user on any premises where backflow protective devices are installed shall conduct competent inspections at least once a year, or more often in those instances where successive inspections indicate repeated failure, and the director has established a more frequent schedule. These devices shall be repaired, overhauled or replaced at the expense of the user whenever they are found to be defective. These tests shall be performed in the presence of a certified backflow prevention device tester, and all test results shall be forwarded within twenty-five (25) days to the director and the Niagara County Health Department. In the event that the test report is not received by the director within twenty-five (25) days of the appropriate schedule, an order to comply will be issued. The city or water board will make its certified backflow prevention device tester available for inspections and testing on schedules established by the city in conjunction with the water board, and at the expense of the user. The director shall have access to any test being conducted.

(f) Inspection requests shall be as follows:

(1) Upon request of any property owner or his or her agent, the cross-connection inspector shall make an inspection of water connections to determine compliance or non-compliance with this part and the state Plumbing Code. A property owner or his agent shall submit with any inspection request an inspection fee as identified in the board schedule of rates to cover the cost of such inspections; provided, however, that if the inspection fee has been paid and an inspection reveals any non-compliance with this part or the state Plumbing Code, a request for re-inspection made within one hundred twenty (120) days of the last inspection may be made and will be provided without payment of any additional fee.

(2) Upon completion of any inspection or re-inspection, the cross-connection inspector shall issue or cause to be issued a letter stating compliance or non-compliance with this part and the state Plumbing Code.

1950.18 **Administrative Powers Of The Director.**

(a) In addition to the powers set forth elsewhere in this part, the director may take any or all of the following actions with respect to property owners or users receiving water service from the water board whenever, in his or her sole discretion, any provision of this part is violated or the standards of care contravened:

- (1) Terminate water service.
- (2) Require correction of violations within a set time frame.
- (3) Require connection, disconnection, modification and/or construction of appropriate devices or structures.
- (4) Require the payment of a surcharge or fee to be determined by the director based on reasonable assessment of the degree of violation and/or real costs resulting from the violation.
- (5) Correct the violation with water board personnel and charge the property owner or user for the real cost of such correction.

Except in the event of an emergency, reasonable advance notice of the action to be taken will be given by the director. Once notice is given, and if the property owner or user contests the action imposed, the property owner or user will have ten (10) business days to respond in writing to the notice of violation.

(b) If a response contesting the action is entered, then, prior to setting the matter down for a formal hearing, the property owner or user may, at the discretion of the director, be afforded the opportunity to meet with the director to resolve the matter by mutual consent. If settlement cannot be reached, then, upon written request of the property owner or user, the director shall refer the matter to the water board for a formal hearing. The water board may appoint and refer the dispute or enforcement proceeding to a hearing officer who shall conduct the hearing of the alleged violation and contest thereof. The hearing officer shall promptly conduct the hearing and provide a written report to the water board with a recommendation, based on the evidence presented, for a final determination by the water board. A written decision of the water board based upon evidence and argument presented, shall be made within thirty (30) days following the conclusion of the hearing or receipt of the hearing officer's report. The decision of the water board shall be only subject to review pursuant to Article 78 of the state CPLR. Following such decision of the water board, the water board may commence an action, in any court having jurisdiction, seeking appropriate legal and/or equitable relief, including injunctions against the violative activity, from property owners or users violating any of the provision of this part.

(c) The director may promulgate administrative procedures, technical specifications, or guidances to implement any and all sections of this part. These procedures, specifications and guidances shall have the same force and effect as if they were fully set forth in this part.

1950.19 **Penalties And Damages.**

(a) Any person found to be violating any provision of this part, or any procedure, specification or guidances as may be established by the director, shall be served by the director with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time provided for in (a) above, shall be subject to a penalty not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00) as determined by the water board, after an opportunity for a hearing with respect to such violation, for each violation, except that a significant industrial user shall be subject to a penalty in the amount of five thousand dollars (\$5,000.00) for each violation. Each day in which any such violation shall continue, shall be deemed a separate violation.

(c) Any person violating any of the provisions of this part shall become liable to the water board for any expense, loss, or damage occasioned the water board by reason of such violation. The expense, loss or damage shall be taken to be to the extent determined by the director.

(d) Any person who tampers with, or knowingly renders inaccurate, any metering device, shall, be subject to a penalty of not more than Five Thousand Dollars (\$5,000) as determined by the water board, after an opportunity for a hearing with respect to such violation(s).

1950.20 **Schedule of Rates, Fees and Charges.**

(a) This schedule sets forth the rates, fees and other charges applicable to the provision of water supply, wastewater and related services by the Niagara Falls Water Board to all property owners, users and other persons during the period January 1, 2007 through December 31, 2007. All property owners, users and other persons who receive services from the water board shall pay to the water board the rates, fees and charges set forth in this schedule.

(b) The following rates shall be charged and collected for the use of water within the city, supplied by the water board as hereby fixed and established:

First 20,000 cu. ft. per quarter, \$2.66 per 100 cu. ft.

Next succeeding 60,000 cu. ft. per quarter, \$2.31 per 100 cu. ft.

Next succeeding 120,000 cu. ft. per quarter, \$1.96 per 100 cu. ft.

Over 200,000 cu. ft. per quarter, \$1.62 per 100 cu. ft.

The minimum charge for water consumed in any premises within the city for any quarter or portion thereof shall not be less than \$34.58.

(c) The following rates shall be charged and collected for the use of water outside the city for residential and commercial purposes supplied by the water board as hereby fixed and established:

First 20,000 cu. ft. per quarter, \$7.62 per 100 cu. ft.

Next 60,000 cu. ft. per quarter, \$6.65 per 100 cu. ft.

Next succeeding 120,000 cu. ft. per quarter, \$5.54 per 100 cu. ft.

Over 200,000 cu. ft. per quarter, \$4.66 per 100 cu. ft.

The minimum charge for water consumed in any premises located outside the city for domestic purposes for any quarter or portion thereof shall not be less than \$99.06

(d) Water used for testing fire hoses, filling tanks, swimming pools, testing sprinkler systems, and like use shall be billed at \$2.66 per 100 cu. ft. in the city. The amount used may be either estimated in accordance with the size of the pipe through which taken at the pressure furnished, or determined by the use of a temporary meter rented to the user by the water board. The use of the latter method shall be at the discretion of the director and may require a refundable deposit.

(e) Use of hydrant for any purpose whatsoever shall be subject to a rental charge of one dollar and 50 cents (\$1.50) per day or partial day.

(f) The cost of hydrant use will include a fee of thirty-five (\$35.00) for backflow device certification, payable at the time of hydrant use application. In addition, daily hydrant and meter rental rates and security deposit amounts shall be established by the director based upon the real cost to the water board.

(g) In addition to the above schedule of rates for water consumed there shall be assessed a demand charge for each user's meter as set forth below.

<u>Size and Type</u>	<u>Charge Per Quarter</u>
Under 1" Disc	\$2.80
1" Disc	\$6.99
2" Disc	\$10.07
2" Compound	\$16.79
3" Compound	\$32.17
4" Compound	\$47.56
6" Compound	\$78.61
8" Compound	\$94.00
10" Compound	\$109.38
12" Compound	\$126.17

(h) The rates set forth in section 2 herein, however, shall not apply to any user of water with whom there is now outstanding a valid and binding contract with the city and/or water board to supply water at a rate different than the rates stated in this Schedule, or to users obtaining water service from the Village of LaSalle prior to May 4, 1927.

(i) In the event the water board or the director terminates water supply service to any property owner or user, such property owner, user or users located at such property shall pay a reactivation fee in the amount of seventy-five dollars (\$75.00) to the water board prior to the supply of water.

(j) There shall be small meter testing charge of one hundred dollars (\$100.00) for the bench testing of any meter less than two inches in size.

(k) An account reactivation charge of one hundred dollars (\$100.00) shall be applied whenever a meter is re-installed and an account reactivated.

(l) The water board shall charge a twenty-five dollar (\$25.00) final read fee for all owner requested meter reads.

(m) A hydrant flow test charge shall be applied whenever an owner, user or his agent requests a hydrant flow test.

(n) The annual availability charge for private fire protection service shall be:

Diameter of <u>Service Connection</u>	<u>Annual Fee</u>
2" or less	\$63.00
3"	\$89.00
4"	\$160.00
6"	\$362.00
8"	\$640.00
10"	\$1000.00
12"	\$1440

(o) A backflow submittal fee of twenty-five dollars (\$25.00) shall be charged for all backflow plans submitted to the water board for approval and forwarding to the state health department.

(p) There shall be a fifty dollar (\$50.00) inspection fee for each request for a cross-connection inspection.

(q) There shall be a thirty dollar (\$30.00) availability charge applied on a quarterly basis to all accounts inactivated pursuant to water board 21 N.Y.C.R.R. Part 1950.8 paragraph (m).

(r) In addition to the above rates, fees and charges, the following rates shall apply to all users with respect to sewer or wastewater services prescribed in the water board's wastewater regulations 21 N.Y.C.R.R. Part 1960. There shall be two (2) user classes as provided in Part 1960, to wit:

Commercial/Small Industrial/Residential Users (CSIRU) and Significant Industrial Users (SIU).

(a) CSIRU

Sewer rates for the CSIRU class are determined by total metered water consumption in each quarter.

The schedule of quarterly charges for the CSIRU class shall be as follows:

SCHEDULE I

Minimum charge per quarter	\$43.50 with a usage allowance of up to 1,300 cubic feet
Additional usage in excess of 1,300 cubic feet	\$3.55 per 100 cubic feet

(b) SIU

1. CONVENTIONAL POLLUTANT PARAMETER CHARGES.

Sewer rates for the SIU class each quarter are based on measured quantities of the actual discharge parameters: flow, suspended solids and soluble organic carbon. Such determination shall be made by the water board and shall be based upon five (5) representative 24-hour composite samples taken quarterly, at such locations as are adequate to provide proper representation.

The schedule of charges for conventional pollutant parameters shall be as follows:

SCHEDULE II

<u>POLLUTANT PARAMETERS</u>	<u>RATE</u>
Flow	\$2506.00 per million gallons
Suspended Solids	\$0.83 per pound
Soluble Organic Carbon	\$1.41 per pound

2. SUBSTANCES OF CONCERN PARAMETER CHARGES.

SIU's, who have wastewater discharge permits which limit any substance of concern listed in Schedule III below, will be billed for discharge of these substances based on the unit rates shown in Schedule III. Discharge loading for billing purposes shall be determined by arithmetic average of the last six acceptable self-monitoring results. At the option of the SIU, increased self-monitoring can be performed. For billing purposes, when six (6) or more acceptable results are obtained over the three (3) month billing period, all such results shall be used in the computation of the arithmetic average, with a requirement that there be at least two (2) sample results for each month. Average discharge loadings will then be multiplied by the corresponding unit rates from Schedule III to obtain total charges per quarter for each substance of concern listed in the SIU's wastewater discharge permit. All substances of concern charges will be added to the charges for conventional parameters, as specified above, to compute the total quarterly sewer rate.

SCHEDULE III

SUBSTANCES OF CONCERN UNIT CHARGES

<u>PARAMETERS</u>	<u>UNIT RATE</u>
Benzene	\$284.00 per pound
Chloroform	\$50.55 per pound
Dichloroethylenes	\$309.00 per pound
Toluene	\$13.67 per pound
Trichloroethanes	\$64.20 per pound
Trichloroethylene	\$81.97 per pound
Vinyl Chloride	\$41.00 per pound
Monochlorotoluenes	\$2.74 per pound
Tetrachloroethylene	\$38.25 per pound
Total Phenols	\$6.22 per pound

3. BILLING.

SIU charges shall be billed on a monthly basis by the water board. The first and second monthly billings in each quarter shall be estimated and shall be one-third (1/3) of the total billing in the immediately preceding quarter. The third monthly bill in each quarter shall be based upon actual discharge quantities for that quarter and shall reflect adjustments for the estimated billings in that quarter.

(s) Unless the context specifically indicates otherwise, all terms contained herein shall have the meanings set forth in the regulations adopted by the water board 21 N.Y.C.R.R. Part 1950 and 1960, as applicable.