

Title 13

PUBLIC SERVICES

Chapters:

- 13.04 Water Service System**
- 13.08 Water Crisis Emergencies**
- 13.12 Sewer Service System**
- 13.16 Systems Development Charges for New Developments**
- 13.20 Critical Drainage Areas**

Chapter 13.04

WATER SERVICE SYSTEM

Sections:

- 13.04.010 Definitions.**
- 13.04.020 Administration.**
- 13.04.030 Establishing, restarting, or changing service.**
- 13.04.040 Main extensions.**
- 13.04.050 Service lines.**
- 13.04.060 Meters.**
- 13.04.080 Billing and collection.**
- 13.04.090 Discontinuance of service.**
- 13.04.100 Customer responsibility.**
- 13.04.110 Miscellaneous.**
- 13.04.120 Violations—Penalties.**

13.04.010

Definitions.

The following terms, whenever used in this chapter, shall be construed as follows unless the context clearly requires a different meaning:

“Applicant” means a person(s), firm, corporation, association or agency applying for water service.

“City” means the city of Sutherlin, a municipal corporation of the state of Oregon.

“City council” means the governing body of the city.

“City manager” means the city manager of the city of Sutherlin, or the manager’s designee.

“City water department” means the unit(s) of city organization or employee designated by the city manager to perform the functions required by this chapter.

“Commercial” means all service to mercantile establishments, professional offices, public or governmental buildings, hospitals, retirement homes, churches, combined residential and commercial/mercantile businesses, apartment houses and mobilehome parks, except those in which each unit is metered separately.

“Cross-connection” means any arrangement whereby the city water supply is connected directly or indirectly with any nonpotable or unapproved water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, liquid, solids, gases, sewage, or other waste of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow.

“Customer” means a person, firm, corporation, association or agency receiving water service.

“Discontinued water service” means the termination of water service. This is normally done by shutting off the city valve at the meter to the customers’ premises, but may also be done by removing the meter.

“Fire protection service” means provision of water to premises for automatic fire protection.

“Industrial” means the use of water for manufacturing or processing activities.

“Irrigation system” means a system for supplying water to landscaping and/or growing crops, which includes a separate pressurization system.

“Mains” means unmetered distribution lines located in public ways or way which are used to serve the general public.

“Premises” means the property or area, including improvements, to which water service is or will be provided.

“Residential” means the use of water for household purposes, on property zoned for residential use.

“Service connection” means the pipe, valves, meters and other facilities by means of which the city water department conducts water from its mains to and through the meter, not including the service line. A service connection serves a single building.

“Service line” means the piping from the meter to the premises served.

“Water meter” means a device for measuring the flow of water, attached between a water main and the customer’s service line, but not any measuring device which the customer may choose to install in the service line past the city’s water meter.

“Water service” means, consistent with this chapter, the provision of water by the city to a premises at the request of a customer or property owner. (Ord. 990 § 1, 2008; Ord. 769 § 1, 1989)

13.04.020

Administration.

A. The city manager shall maintain and operate the city waterworks system, and all its related equipment, shall collect all revenues required, shall implement the policies of the city council regarding water service and shall perform other work as directed by the city council.

B. All revenues shall be accounted for in a manner satisfactory to the city council and shall be deposited regularly in the city treasury in a special fund known as the water fund. (Ord. 769 § 2, 1989)

13.04.030

Establishing, restarting or changing service.

A. Application Form. Each applicant for water service shall sign an application form provided by the city water department. There shall be only one application per meter connection. Each application shall be dated, shall state the location of the premises, whether the premises has been served before, whether the applicant(s) has ever been a customer of the city water department before, the date on which the applicant(s) wishes to have service begin, the purpose for which the service is to be used, the address for mailing of bills, the applicant’s address, the class of service

and such other information as the city water department may reasonably require. In signing the application, the applicant(s) agrees upon receiving water service to abide by the rules and regulations of the city water department. The application is merely a request for service and does not bind the city water department to provide service.

B. Changes in Service. Customers anticipating a material change in the amount of water used shall give the city water department written notice of such change prior to the change, and the application for service shall be amended. Customers desiring a change in the size, location or number of services shall fill out a new application and submit any necessary additional fees and/or deposits.

C. Deposits.

1. Deposit. At the time application is made, the applicant shall pay a deposit in such amount as set by council resolution. At the time the deposit is given to the water department, the applicant shall be given a receipt for the deposit. The deposit is not to be considered a payment on account. Interest shall not be paid on deposits.

2. Return of Deposit. A customer's deposit shall be returned when the customer has established a history of two years of payments without delinquency. If a customer has a delinquency during the first two years, the deposit shall be kept until the customer has twenty-four (24) consecutive calendar months free of delinquency. In any event, a customer's deposit shall be returned when service is discontinued; provided, that all outstanding charges have been paid.

3. Forfeiture. If an account becomes delinquent and it is necessary for the city water department to disconnect the service, water service shall not be restored to that location until the outstanding bill to the city water department has been paid and the deposit replaced. If customer had a deposit returned to them at an earlier date, they will be required to supply a new deposit at this time in accordance with subsection (C)(1) and (C)(2) of this section.

D. Establishing a Service Connection Outside the City Limits. A request to establish a new service connection to a premises located outside the city's corporate limits shall be reviewed and approved or denied by the city manager. The city manager shall only approve an application which clearly demonstrates:

1. The premises is within the urban service area designated in the city's comprehensive plan and is zoned for residential use;

2. The structure to be served existed on the premises before June 1, 1989, and been served by a private water system that has failed for volume of water or for quality of water and the failure is not the result of any intentional act of the occupant;

3. The occupants of the premises physical health is endangered unless the premises receives city water service;

4. The applicant has provided financial assurances to the city council's satisfaction demonstrating the occupant's ability to pay for the cost of extending water service; and

5. The applicant consents to and, contemporaneous with approval, records in the official records of Douglas County a statement acknowledging the city has provided water service on the following conditions:

a. That the water shall be used only for domestic purposes and may not be used for irrigation, commercial or industrial purposes;

b. That in the event the city determines it lacks sufficient water to serve customers within the city or it is in the public interest of the citizens of the city, it may suspend or discontinue water service;

c. That the city makes no guarantee of adequate pressure or volume;

d. That the customer shall comply with all the city rules and regulations affecting water service and use; and

e. That failure to pay in full the connection fee required by the city later than sixty (60) days following the date of approval shall cause such permit for outside meter service to be rescinded.

E. Restarting Water Service Outside the City Limits. A request to restart water service to premises located outside the city's corporate limits shall be reviewed and approved or denied by the city manager. The city manager shall only approve an application which clearly demonstrates:

1. The city has provided water service to the premises in the past;

2. The premises currently have a functional service connection, meter and service line; and

3. The applicant meets the requirements of Section 13.04.030(D)(5). (Ord. 1026 § 1, 2013; Ord. 990 § 2, 2008; Ord. 967 § 1, 2006; Ord. 909 §§ (A)—(C), 1999; Ord. 796 § 1, 1991; Ord. 769 § 3, 1989)

13.04.040

Main extensions.

A. Size and Quality. Water main extensions must be of an appropriate size for the location as set forth in the comprehensive plan, and of a quality sufficient to satisfy the requirements of the state of Oregon.

B. Cost. The cost of all water main extensions shall be borne by the adjacent properties along which the extensions are made, on a front-foot basis, except that the adjacent properties shall not be assessed in excess of the cost of installing a six-inch main, including all fittings and valves. Any cost in excess of what may be assessed to adjacent properties shall be borne by the applicant unless by prior written agreement with the city. The applicant desiring the extension shall arrange to have all necessary work performed, subject to the standards and approval of the city water department.

C. Location of Extension. The location of all water main extensions shall be subject to the approval of the city manager. All water main extensions shall be placed in a public right-of-way. If placed on private property, the owner of the property shall convey an easement to the city for a right-of-way in a form satisfactory to the city manager. Whenever a water main is extended, the extension shall be constructed so as to extend past the property benefitted and terminate at the boundary of the last property benefitted by the extension and the next abutting property owner not to receive water service on the application. If there is an intervening street, the main shall be extended to the middle of the street. In the event the last property benefitted by the extension abuts the corporate limits of the city, the property owner and the city manager shall make arrangements for the location of the termination of the extension. The decision of the city

13.04.050

manager may be appealed to the city council. Except with the council's prior approval, in no event shall an applicant be permitted to connect to the city water system until the water main is extended as provided in this section.

D. Plans for Expansion. The city manager shall periodically prepare a five-year plan for the improvement and expansion of the city water system to meet projected needs. This report shall be submitted to the city council for its approval or modification and approval.

E. Extension Outside of City Limits. The city water department may extend its water mains to service customers outside the city limits at the applicant's cost when service outside the city limits has been approved under Section 13.04.030(D). (Ord. 990 § 3, 2008; Ord. 769 § 4, 1989)

13.04.050

Service lines.

A. Ownership. The customer shall own, install and maintain the service line.

B. Fee. A system development charge shall be assessed to any applicant who applies for water service where no service has previously existed, or who files for a change in the service size or location. The applicant shall submit with the application the necessary service connection charge.

C. Standards. A service line will be permitted in lieu of a main extension only when the city manager determines:

1. The city comprehensive plan shows no urban development or urban reserve beyond the premises to be served; and
2. There is no need to extend the water system beyond the premises to be served to inter-connect water mains or for water storage as part of the waterworks system.

The decision of the city manager shall be final.

D. Installation of Service Lines. All service lines shall be installed according to the standards adopted by the city manager, and shall be inspected and approved by the city water department prior to use.

E. Number of Service Lines. Provided the use of the premises conforms to other city ordinances, the owner of a single parcel of property may apply for and receive as many services as the owner and occupants require.

F. Fire Protection Service Connections.

1. Purpose. Standby fire protection service connections shall be installed only if adequate provisions are made to prevent the use of water from the services for purposes other than extinguishing fires. Sealed fire sprinkler systems with water operated alarms shall be considered to have such provisions. The city water department may require that a suitable detector-check meter be installed in the standby fire protection service connections to which hose lines or hydrants are connected. All piping on the customer's premises shall be installed in accordance with the plumbing code.

2. Charges. No charge shall be made for water used in the standby fire protection service to extinguish accidentally set fires by the customer or for routine testing of the fire protection system. No test of fire equipment may be conducted except by the city fire department, unless a special permit is first obtained from the city water department. The customer shall pay the full cost of the standby fire protection service connection, any required detector-check meters, and any required special water meter or other device required by the city water department and installed for the standby connection.

3. Violations. If water is used from a standby fire protection service in violation of these regulations, an estimate of the amount used shall be computed by the city water department. In addition to any penalty imposed by a court, the customer shall pay for the water used at twice the normal rates, including the minimum charge based on the size of the service connection, and subsequent bills shall be rendered on the basis of the regular water rates.

4. Pressure and Supply. The city assumes no responsibility for loss or damage because of lack of water pressure or volume. The city shall furnish only such water service in quantities and pressure as are available in its general distribution system. The service is subject to shut-downs and variations required by the operation of the system. (Ord. 990 § 4, 2008; Ord. 769 § 5, 1989)

13.04.060

Meters.

A. Ownership and Control. The city shall own and maintain all water meters. Installation of water meters shall be performed only by authorized employees of the city. All meters shall be sealed by the city at the time of installation, and no seal shall be altered or broken except by one of its authorized employees.

B. Size and Type of Meter. An applicant may request installation of any size meter regularly stocked or furnished by the city water department, provided that the request is reasonable, and further provided that the meter is not greatly oversized or undersized, as determined by the city

13.04.060

water department. The city water department shall determine the size and type of meter to be installed.

C. Location of Meters. Water meters shall be placed on city property, public ways or public easements. Within budgeted resources, existing meters on private property shall be moved by the city to city property, public ways or public easements at city expense. If the relocation of the water meter should cause the installation of new water lines between the meter and the property served, the cost of pipe, labor and material shall be borne by the city.

13.04.080

D. Control Valves. The customer shall install a suitable valve at the time of installation or replacement of the water meter, as close to the meter as practical, the operation of which will control the entire supply of water to the premises. A customer shall not operate the city water valve in the meter box.

E. Damage to Meters. In case of injury to the water meter, or in case of its stoppage or imperfect operation, the customer shall give immediate notice to the city water department. If any meter becomes defective, or fails to register, the customer will be billed based on an average of the customer's prior three months usage when the meter was working properly.

F. Accuracy of Meters. The accuracy of the meter for any premises will be tested by the city water department upon written request of the customer, who shall pay in advance a fee set by resolution to cover the cost of the test. If the test indicates that the meter is registering at least five percent fast, the advanced fee shall be returned and the city water department will refund to the customer the amount of the overcharge based on corrected meter readings for a period not exceeding the most recent three months the meter was in use. If the meter is found to be registering at least twenty-five (25) percent slow, the city water department may bill the customer for the amount of undercharge based upon corrected meter readings for a period not exceeding the most recent month the meter was in use.

G. Billing of Separate Meters. Each meter on the customer's premises shall be considered separately and the readings of two or more meters will not be combined unless the city water department's operating convenience requires the use of more than one meter. (Ord. 909 § (D), 1999; Ord. 769 § 6, 1989)

13.04.080

Billing and collection.

A. Reading of Meters. Meters shall be read at regular intervals for the preparation of bills and as necessary for the preparation of opening, closing and special bills. The city water department may estimate meter readings in cases where actual meter readings are not available and adjust billings when actual meter readings are obtained.

B. Frequency of Billing. Bills for water service shall be rendered at least bi-monthly. The city water department may:

1. Read meters and render bills for a shorter or longer period than two months;
2. Include with the regular water service billing the amount of any valid obligation due the city water department.

C. Payment of Bills.

1. Due Date. Each bill rendered shall contain the final date on which payment is due. The due date for payment shall be fifteen (15) days from its date of issuance.

2. Notice of Delinquency. The billing clerk shall cause a notice of delinquency to be mailed to water customers who have not paid their account in full by the due date. Such notice shall state, at a minimum, that disconnection of water service may occur within ten days following the mailing of the delinquency notice if the account should remain unpaid.

3. Late Charge. Bills not paid by the due date shall be assessed a penalty charge set by resolution.

4. Installment Payment Plan. When it is established that a water leak has occurred, the city manager or designee may enter into an installment payment plan with the customer for payment of that bill. Prior to executing an installment payment plan, the customer must provide proof that the subject leak has been repaired.

5. Adjustment of Bills. The City Manager or designee may adjust the amount due on a water bill in accordance with this section.

a. The amount due on a water bill may be adjusted only if the customer can demonstrate that:

i. The total amount due on the water bill is a result of a water leak that existed underground between the meter and the building and the leak was not caused by damaged automatic irrigation heads; and

ii. The leak was identified and fixed within 30 days of the initial water bill being mailed to the customer that included the increased water consumption caused by the leak; and

iii. The customer's property has been inspected by City staff and determined to be free from any leaks.

b. The amount due on a water bill may be reduced up to 50% of the estimated excess water consumption. The estimated amount of excess water consumed as a result of the leak will be determined by subtracting the amount of water consumed by the customer the same month of the previous year from the amount of water consumed on the subject bill. If the customer does not have a year of consumption history, the estimated amount of excess water consumed as a result of the leak will be determined by subtracting the amount of water consumed the previous month from the amount of water consumed on the subject bill.

c. Bills adjusted in accordance with this section may be paid in installments in accordance with this Chapter.

D. Delinquent Accounts.

1. Notice of Delinquency. If a bill is not paid by the due date designated on the bill, a delinquent notice shall be mailed to the customer. If the bill is not paid in full within ten days of the mailing of the delinquent notice, water service, in the sole discretion of the city, may be disconnected.

2. Right to Appeal. Customers shall be notified of and have the opportunity to be heard by a city official or employee empowered to resolve any valid objections to the billing prior to the disconnection.

3. Hardship. In cases of extreme hardship, the city manager shall have the discretion of renewing service to a delinquent account upon receipt of a satisfactory installment payment plan for the overdue amount.

4. Turn-On Fee. When water service has been discontinued due to delinquency in payment, water service shall not be restored until such delinquent amounts have been paid. In addition, an additional "turn-on fee" shall be paid in advance of restoring water service.

E. Liens.

1. Delinquent water service charges shall be a lien against owner occupied premises served. On the date the delinquency notice is mailed, the amount of the delinquency shall be entered in the lien docket of the city along with the description of the property and shall remain a lien until satisfied.

2. The city's claim against a tenant is transferred to the owner of the property when the city provides notice of the delinquent status to the tenant and mails a copy of the notice of delinquency by first class mail to the last address of the owner or owner's agent that is on file with the city, within 30 days from the time the payment is due on the account. The transferred claim shall be a lien against the property served from the date the notice of delinquent status is mailed to the owner of the property. The transfer does not relieve the tenant of the obligation to pay the claim.

3. Whenever a lien for water service remains unsatisfied sixty (60) days after it has been entered, the lien may be foreclosed in the manner provided for by ORS 223.610, or in any other manner provided by law or city ordinance.

F. Refusal of Service. The city shall refuse service to the premises where a lien exists for delinquent water service charges until the lien has been paid.

G. Temporary Vacancy. In case of the temporary vacancy of any premises for any period of time, upon the request of the owner of the premises, water service can be turned off at the service cock, or the meter removed by the city water department, and service shall be restored when again requested, subject to a "turn-on fee." If such a request is not made, billing will continue at the normal monthly rate.

H. Temporary Service. In case of a need for water due to renovation, repairs, and/or cleaning of a building, temporary water service may be requested. There will be a flat fee established by resolution for this service. Temporary service will not be allowed for more than thirty (30) consecutive days. If water usage exceeds one thousand (1,000) gallons during that time, full water service fees will be charged.

J. Bulk Water. Bulk water may be sold upon request. There will be a charge imposed each time hookup is made, in addition to a per/one thousand (1,000) gallons fee. These fees will be set by resolution. (Ord. 1025 § 1, 2013; Ord. 998 § 1, 2008; Ord. 990 § 5, 2008; Ord. 914 § 1, 1999; Ord. 909 §§ (F)—(J), 1999; Ord. 793 § 1, 1991; Ord. 769 § 8, 1989)

13.04.090

Discontinuance of service.

A. On Customer Request. Each customer about to vacate any premises receiving water service shall request discontinuance of water service prior to the date service is to be discontinued. The customer is responsible for all water supplied to the premises until service is actually discontinued by the city water department or two days after the city receives notice, whichever occurs first.

B. Nonpayment of Bills. A customer's water service may be discontinued if the water bill is not paid as provided in this chapter.

C. Improper Customer Facilities.

1. Unsafe Facilities. The city water department may refuse to furnish water and may discontinue service to any premises without prior notice where plumbing facilities, appliances or equipment using water are dangerous, unsafe or not in conformity with the State Plumbing Code or the Oregon Administrative Rules.

2. Cross-Connection. The city water department may discontinue water service if the customer fails to comply with the cross-connection control regulations set forth in this chapter.

D. Waste. Where water is wastefully or negligently used on a customer's premises, the city water department may discontinue the customer's water service if such conditions are not corrected within forty-eight (48) hours after giving the customer written notice.

E. Service Detrimental to Others. The city water department may refuse to furnish water and may discontinue service to any premises where excessive demand by one customer will result in inadequate service to others.

F. Fraud. The city water department may refuse or discontinue service to any premises where it is considered necessary to protect the water department from fraud. Discontinuance of service may be made immediately upon receipt of knowledge by the city water department that the condition exists.

G. Noncompliance with Rules and Regulations. The city manager may, unless otherwise provided, discontinue water service to any customer for noncompliance with any of the city's laws or regulations governing water service at any time.

H. Restoration of Service. The city shall charge for restoring water service which has been discontinued because of noncompliance with the city's laws and regulations regarding water service. The charge shall be based on the city's cost for reconnecting water service, including administration and overhead costs, plus the current reconnection fee set by resolution.

I. Unauthorized Turn-On. Where water service is turned on without city water department authorization, the city water department may then discontinue water service. When repeated unauthorized turning on of water service occurs, the city water department shall remove the water meter. The charge for discontinuing water service shall be the actual cost, plus administration and overhead, plus set fee from fee schedule (resolution). The charge for removing the water meter shall be the actual cost plus administration and overhead plus set fee from fee schedule (resolution). If customer has no deposit on hold with the city they will be required to place a new one in accordance with Section 13.04.030(C)(1) and (C)(2). All such charges shall be chargeable to the offending customer, and water service to the premises shall not be furnished again until such charges are paid. (Ord. 990 § 6, 2008; Ord. 909 § (K), 1999; Ord. 769 § 9, 1989)

13.04.100

Customer responsibility.

A. Each customer shall maintain all pipes, fittings and fixtures in proper order free from leakage or wastage.

B. Admission of City Employees. The city manager shall be admitted during reasonable hours to customer's premises in order to inspect any water pipe, appliance or fixture upon the premises.

C. Use of Water. Except where it forms part of a manufactured product, no water shall be sold or conveyed beyond the premises served without the permission of the city water department.

D. Abatement of Noise — Pressure Surges. No apparatus, fitting or fixture shall be connected, allowed to remain connected, or operated in a manner which will cause noise, pressure surges or other disturbances which, in the opinion of the city manager, result in annoyance or damage to other customer's property or to the city's water system. If any such condition exists, the city manager may give notice to the customer to correct the fault with forty-eight (48) hours notice or such lesser period as may be specified and the customer shall correct the fault within the period specified. If the fault is not corrected, the city manager may order the customer's water service to be turned off until the fault is corrected.

E. Prevention of Cross-Connection.

1. Customer's Responsibility.

a. Inspection. Water systems shall be open for inspection at all reasonable times to authorized representatives of the city water department to determine whether cross-connection exists.

b. Compliance. If a cross-connection is found in the customer's water system, the customer will be informed of this condition in writing and given sixty (60) days to correct the problem or install an approved backflow prevention device. If the customer does not comply within the sixty (60) days, the customer's water service may be discontinued, including removal of the meter. Service will not be re-established until satisfactory proof is furnished that the cross-connection has been completely and permanently severed, or that an approved backflow prevention device has been installed. If a cross-connection is found, within the opinion of the city manager, to endanger the public water system, the customer's water service shall be discontinued immediately and not restored until the situation is corrected.

c. Testing. It shall be the duty of the customer where backflow prevention devices are installed, to have them inspected and tested at least once per year or more often in those instances where successive inspections and tests indicate failure. Those inspections and tests shall, at the expense of the customer, be performed by a certified backflow device tester.

2. Records. It shall be the responsibility of the backflow device tester to submit records of such tests to the city water department.

3. Backflow prevention devices shall be installed whenever the following conditions exist:

a. Bacteriological Contamination. In the case of any premises where there is an auxiliary water supply which is not of safe bacteriological quality and which is connected to the customer's system, the potable water system shall be protected by an approved airgap separation or an approved reduced pressure backflow prevention device. A double-check valve assembly may be used if the auxiliary water is of proven safe bacteriological quality.

b. Hazardous Materials. In the case of any premises where there is any material dangerous to health which is handled in such a fashion as to permit entry into the potable water system, the potable water system shall be protected by an approved airgap separation or an approved reduced pressure backflow prevention device. If protection is desirable to protect the health of those persons on the premises, a pressure vacuum breaker may be used.

c. Offensive Materials. In the case of any premises where a substance that would be objectionable but not hazardous to health, if introduced into the potable water system, the potable water system shall be protected by an approved double-check valve assembly or an approved pressure vacuum breaker.

d. Irrigation Systems. Irrigation systems may be protected by approved atmosphere or pressure vacuum breaker or double-check valve assemblies, except when fertilizers or other toxic substances are introduced through the irrigation system, in which case an airgap or reduced pressure backflow prevention device shall be used.

e. Approval of Devices. All backflow prevention devices used shall be a model approved by the Oregon Department of Human Resources, State Health Division.

f. New Construction. Where possible, a plan check should be made prior to construction to determine the degree of hazard and the class of backflow prevention device, if any, required at the point of delivery from the city's potable water supply to a customer's premises. Where adequate plans and specifications are not made available and no realistic evaluation of the proposed water uses can be determined, the customer, architect, engineer or other authorized person should be advised that eventually circumstances may require the installation of maximum backflow protection at the water service connection.

g. Backflow Prevention Device Permit. When it is found that the customer needs a backflow prevention device, the city water department will issue a permit for the device. This permit will identify the type, size, model, etc., of the backflow prevention device and also assign each device a number. This number and permit will enable the city water department to ensure that testing and other requirements of this section are met. The permit number should be used in all correspondence in reference to each installation to eliminate confusion.

F. Water Use Restrictions. The city council may from time to time impose restrictions on water use or change or revoke such restrictions, and in doing so may make the restrictions applicable at specified times or on specified days and may differentiate between classes of customers or areas of the city or otherwise. Sufficient notice of such restrictions shall be deemed to have been given by publication in a local newspaper or announcement of the local radio stations, or an announcement by the city council at a council meeting. It is unlawful for any person to use water in violation of such restrictions.

G. Tampering with Facilities. No person shall tamper or interfere with the city's water system, nor shall any person, except as authorized by the city manager, connect to or operate any pipe, valve, meter, hydrant or other part of the city's water system. The customer shall be liable for any damage to a meter or other equipment or property owned by the city which is caused by an act of the customer, or the customer's tenants or agents. The city water department shall be reimbursed by the customer for any such damage promptly on presentation of a bill. (Ord. 940 § 1, 2002; Ord. 909 § (L), 1999; Ord. 769 § 10, 1989)

13.04.110

Miscellaneous.

A. Mandatory Connection. All structures

located within the city limits which are equipped with plumbing facilities shall be connected to the city water system.

B. Complaints. All complaints concerning the operation of the city water department should be brought to the attention of the city manager, who shall promptly investigate any such complaint and take any necessary action. The decisions of the city manager may be appealed to the city council.

C. Appeal to City Council. When this chapter expressly provides an appeal from a decision of the city manager to the city council, the appeal shall be in a writing filed with the city manager. The appeal shall specify the objections to the city manager's decision and state the relief sought. The appeal with the city manager's written response thereto shall be forwarded to the city council at its next regular meeting held at least five days after the filing of the appeal. The city manager's response and the notice of the council meeting when the appeal shall be considered shall be mailed or personally served on the appellant not less than seventy-two (72) hours before the council meeting. Before rendering its decision, the council may take oral testimony or decide the matter on the written record. The council's decision shall be made applying the same standards required of the city manager in reaching his/her decision. The council may approve, modify and approve or deny the appeal. The decision of the council shall be final.

D. Fire Hydrants. Fire hydrants and standpipes may be opened and used only by the water and fire departments of the city or by such persons as may be specifically authorized by the city manager. No person, firm or corporation shall in any manner obstruct or prevent free access to any fire hydrant by placing or storing temporarily or otherwise any vehicle, object or material of any kind within ten feet of a fire hydrant.

E. Inspection of Apparatus. The city does not assume responsibility for inspecting service lines or apparatus on any customer's property. The city manager is authorized to inspect any customer's property at any time there is reason to believe that this chapter has been violated or that unsafe or illegal apparatus is in use or that conditions exist which are detrimental to the safety of the water system and its users.

F. Pressure, Supply and Quality. The city does not guarantee pressure nor continuous supply of water, nor does it accept responsibility at any time for the pressure on its lines nor for increase or decrease in pressure. The city may at any time, without notice, change operating water pressures, shut off water, or otherwise interrupt water service for the purpose of making repairs, extensions, alterations or improvements or for any other reason. Neither the city, its officers, employees or agents shall incur any liability of any kind whatsoever by reason of the cessation in whole or in part of water pressure or supply, or change in operating pressure, or by reason of the water containing sediments, deposits or other foreign matter. Customers depending on a continuous and uninterrupted supply of water or having processes or equipment that require particularly clear or pure water shall provide such emergency storage, oversize piping, pumps, tanks, filters or other equipment necessary to assure a supply of water suitable to their requirements.

G. Customer-Requested Changes. Property owners or customers desiring the removal or relocation of city water department facilities including service connections, chambers, hydrants or other fittings, shall bear all costs of removal or relocation. The actual work of removal or

relocation shall be performed by the applicant or their agent, subject to the inspection and approval of the city manager. All work performed shall meet the plumbing code and the city regulations. The city manager may refuse to permit the removal or relocation of the facilities, if, in the city manager's opinion, fire protection or the operation or control of any portion of the city water system or other public or private facilities would be endangered. (Ord. 769 § 11, 1989)

13.04.120**Violations—Penalties.**

A violation of any provision of this chapter is punishable by a fine not to exceed five hundred dollars (\$500.00). Subsequent to notice by the city water department to a customer that the customer is in violation of this ordinance, each day the customer remains in violation shall constitute a separate violation of this chapter. (Ord. 769 § 12, 1989)

Chapter 13.08

WATER CRISIS EMERGENCIES

Sections:

- 13.08.010 Definitions.**
- 13.08.020 Applicability.**
- 13.08.030 Water crisis emergency.**
- 13.08.040 Prohibited acts during water crisis emergency.**
- 13.08.050 Exception to maintain sanitation.**
- 13.08.060 Length of restriction or prohibition.**
- 13.08.070 Declaration of water crisis state of emergency.**
- 13.08.080 Authority of officer.**
- 13.08.090 Violations—Penalties.**

13.08.010

Definitions.

For the purpose of this chapter, the following terms, words, phrases and their derivations shall have the meaning given herein. When not inconsistent with the context, the words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

“City” is the city of Sutherlin.

“Person” includes a natural person and any firm, partnership, association, corporation, including a municipal corporation and a subdivision of the state of Oregon, company or other organization of any kind.

“Water” is water from the city water supply system. (Ord. 614 § 1, 1979)

13.08.020

Applicability.

The provisions of this chapter shall apply to all persons using water, both in and outside the city, regardless of whether any person using water shall have a contract for water service with the city. (Ord. 614 § 2, 1979)

13.08.030

Water crisis emergency.

Whenever the city council finds, on the basis of the water storage reserves, that the amount of water available and the probable use of water or the probable drawing thereon from the city mains makes it necessary that there be a conservation of the water to protect the citizens and property in the city, the mayor with the consent of a majority of the city council may declare a water crisis

state of emergency. The water crisis state of emergency may be declared by the mayor on a regular or special meeting of the city council, or in case of extreme emergency by the council members being polled informally by the city manager, and the results of the poll furnished the mayor. Should this occur, the council shall ratify the action at its next regular or special meeting. (Ord. 614 § 3, 1979)

13.08.040

Prohibited acts during water crisis emergency.

During a water crisis state of emergency it is unlawful:

A. For any person not engaged in a commercial or industrial enterprise to use any water except for inside household use necessary for the health, sanitation and welfare of the household;

B. For a person engaged in a commercial or industrial enterprise to use water for any purpose except such as is necessary to keep the enterprise operating.

However, the council may make exceptions from time to time to the above restrictions as the council deems proper considering the severity of the water crisis state of emergency. The exceptions may include irrigation of lawns and gardens in the manner and at the times specified by the council making the exceptions. (Ord. 614 § 4, 1979)

13.08.050

Exception to maintain sanitation.

The city health officer, after written notice to the mayor, shall have the authority to permit a reasonable use of water in any case necessary to maintain adequate health and sanitation standards. (Ord. 614 § 5, 1979)

13.08.060

Length of restriction or prohibition.

The prohibition shall remain in effect until terminated by announcement of the mayor in accordance with this chapter. (Ord. 614 § 6, 1979)

13.08.070

Declaration of water crisis state of emergency.

A. The mayor shall cause each declaration made by him pursuant to this chapter to be publicly announced by means of radio broadcast from any radio station with its normal operating range covering the city, and he shall cause such declaration to be further announced in a newspaper of general circulation within the city. Each announcement shall prescribe the action taken by the mayor, including the time it became or will become effective, and shall specify the particular use for which the use of water will be prohibited.

13.08.080

B. Whenever the mayor shall find the conditions which gave rise to the water prohibition in effect pursuant to this chapter no longer exist, he may declare the prohibition terminated in whole or in part in the manner prescribed by this chapter, effective immediately upon announcement.

C. The mayor shall make or cause to be made a record of each time and date when any declaration is announced to the public in accordance with this section, and this includes the notice of termination, both in whole or in part. (Ord. 614 § 7, 1979)

13.08.080

Authority of officer.

Any police officer or other employee of the city may enter upon the premises of any person for the purpose of shutting off or reducing the flow of any water being used contrary to the provisions of this chapter. (Ord. 614 § 8, 1979)

13.08.090

Violations—Penalties.

A person violating any of the provisions of this chapter shall be deemed guilty of a violation and punished by a fine of not more than one hundred dollars (\$100.00). Each day such violation is committed or permitted to continue shall constitute a separate violation and shall be punishable as such hereunder. (Ord. 614 § 9, 1979)

Chapter 13.12

SEWER SERVICE SYSTEM

Sections:

Article 1. General Provisions

- 13.12.010 Definitions.**
- 13.12.020 Ownership of sanitary sewer system.**
- 13.12.030 Legal authority and implementation.**
- 13.12.040 Amendments.**

Article 2. Use of Public Sewers Required

- 13.12.050 Sanitary disposal required.**
- 13.12.060 Proper sewage discharge required.**
- 13.12.070 Construction of sewage disposal facilities.**
- 13.12.080 Connection to city sewer required.**
- 13.12.090 City may require connection.**

Article 3. Building Sewers and Connections

- 13.12.100 Sewer permit required.**
- 13.12.110 Building sewer permit types and costs.**
- 13.12.120 Permits to be displayed.**
- 13.12.130 Proper installation required.**
- 13.12.140 Contractor's license.**
- 13.12.150 Separate building sewers required.**
- 13.12.160 Owner responsible for connection cost.**
- 13.12.170 Connection fees.**
- 13.12.180 Service to properties outside city limits.**
- 13.12.190 Standards for connection to public sewer.**
- 13.12.200 Surface protection and restoration of excavations required.**
- 13.12.210 Requirements of old building sewers.**
- 13.12.220 Building sewer prohibitions.**
- 13.12.230 Construction of sewers.**
- 13.12.240 Inspection and testing of building sewers.**
- 13.12.250 Water line crossings.**
- 13.12.260 STEP systems.**
- 13.12.270 Sewer main extensions.**
- 13.12.280 Financing of sewer main extensions.**

Article 4. Use of the Public Sewers

- 13.12.290 General discharge prohibitions.**

13.08.090

- 13.12.300** **Restricted substances.**
- 13.12.310** **Federal Categorical Pretreatment Standards.**
- 13.12.320** **State requirements.**
- 13.12.330** **TTO reporting requirements.**
- 13.12.340** **Specific pollutant limitations.**
- 13.12.360** **Requirements for special removal traps.**
- 13.12.370** **Repair requirements for excessive infiltration and inflow.**
- 13.12.380** **Protection from damage.**

Article 5. Industrial Pretreatment Program

- 13.12.390** **Declaration of policy.**
- 13.12.400** **Application and permit to discharge.**
- 13.12.410** **Pretreatment facilities.**
- 13.12.420** **Monitoring facilities.**
- 13.12.430** **Monitoring and reporting requirements.**

13.08.090

- 13.12.440 **Recordkeeping.**
- 13.12.450 **Inspection.**
- 13.12.460 **Notification.**
- 13.12.470 **Notice of hazardous waste discharge.**
- 13.12.480 **Accidental discharges.**
- 13.12.490 **Dilution.**
- 13.12.500 **Confidential information.**
- 13.12.510 **Administration fees.**
- 13.12.520 **Recovery of costs.**

Article 6. Powers and Authority of Inspectors

- 13.12.530 **Power and authority to inspect.**
- 13.12.540 **Safety and liability.**
- 13.12.550 **Authority to enter easements.**

Article 7. Enforcement Procedures

- 13.12.560 **Public nuisance.**
- 13.12.570 **Cease and desist order.**
- 13.12.580 **Failure to comply.**
- 13.12.590 **Submission of time schedule.**
- 13.12.600 **Revoking a permit and terminating service.**
- 13.12.610 **Public notification of violations.**
- 13.12.620 **Violations.**
- 13.12.630 **Violators liable for damages.**
- 13.12.640 **Fine for violations.**

Article 8. Appeals

- 13.12.650 **Reconsideration.**
- 13.12.660 **Appeals to the city council.**
- 13.12.670 **City council hearing.**

Article 9. Charges and Rates

- 13.12.680 **Charges imposed.**
- 13.12.690 **Surcharge for excessive discharge loads.**
- 13.12.700 **Users outside of city limits.**
- 13.12.710 **Monthly service charges.**
- 13.12.720 **Nonpayment charges.**
- 13.12.730 **Review and revision of rates.**
- 13.12.740 **Building sewer permit fees.**
- 13.12.750 **System development charge.**
- 13.12.760 **Additional connection fees.**
- 13.12.770 **Adjustment of bills.**

13.12.010

13.12.780 **Installment payment plan.**

Article 1. General Provisions

13.12.010

Definitions.

As used in this chapter:

“Act” means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended through the effective date of the ordinance codified in this chapter.

Authorized Representative of Nonresidential User. An “authorized representative of a nonresidential user” shall be:

1. A president, vice-president, secretary or treasurer in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, if the nonresidential user is a corporation;

2. A general partner or proprietor if the nonresidential user is a partnership or proprietorship, respectively; or

3. A duly authorized representative of the individual designated in subdivision (1) or (2) above, provided the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates or a position of equivalent responsibility or having overall responsibility for environmental matters for the company, is made in writing by an individual designated in subdivision (1) or (2) above, and such authorization is provided to the city prior to or together with any reports signed by an authorized representative as provided in 40 CFR 403.12(1) or required by the city manager.

“Biochemical oxygen demand, five-day (BOD5)” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty (20) degrees Celsius, expressed in milligrams per liter (mg/L); EPA method 405.1.

“Building drain” means that part of the lowest horizontal piping of a drainage system which received the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewers, beginning five feet (1.5 meters) outside the outer face of the building walls.

“Building inspector” means the person authorized to issue building permits and inspect sewer installations for proper compliance with all ordinances, rules and regulations.

“Building sewer” means the extension from the building drain which conveys wastewater from the premises of the users to the public sewer system.

“Categorical pretreatment standard” or “categorical standard” means any regulation containing pollutant discharge limits promulgated by the United States Environmental Protection Agency in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of industrial users and which appears in 40 CFR Chapter I, Subchapter N, Parts 405 to 471, incorporated herein by reference.

“CFR” means the referenced Code of Federal Regulations provision.

“City” means the city of Sutherlin, Oregon.

“City manager” means the city manager of the city as defined by the city’s Charter, or the city manager’s designee.

“City sewerage system” means a treatment works as defined by Section 212 of the Act, which is owned by the city. This definition includes any devices or systems used in the storage, treatment, recycling and reclamation of municipal sewage or nonresidential wastes of a liquid nature. It also includes, but is not limited to: sewers, pipes, pumps, structures and appurtenances only if they are used to convey wastewater to the sewage treatment plant.

“Claim” means any demand, claim, action, arbitration, or other adversarial proceeding that is asserted, filed, prosecuted, or appealed by any person and any resulting damages, judgments, attorney fees, litigation costs, arbitration costs, and other expenses and liabilities.

“Combined sewer” means a sewer receiving both surface runoff and sewage.

13.12.010

“Constituent” means any pollutant regulated by this chapter or by any permit issued pursuant to this chapter, or any volume discharge limits established by a permit issued pursuant to this chapter.

13.12.010

“Contractor” means a construction contractor who is licensed by the Oregon Construction Contractor’s Board and who is qualified to perform work governed by this chapter.

“Control authority” refers to the city, city manager or director of public works as designated by city through ordinance.

“Cooling water” or “noncontact cooling water” means the water discharged from any use such as air conditioning, cooling or refrigeration, to which the only pollutant added is heat.

“Department of Environmental Quality” or “DEQ” means the Oregon Department of Environmental Quality or where appropriate, the term or acronym may also be used as a designation for the director of the department or other duly authorized official or agent of the department.

“Director” means the director of public works for the city of Sutherlin. See “Public works director” or “Utilities director.”

“Discharge” means the introduction of pollutants into the city sewerage system from non-domestic source regulated under Section 307(b), (c) or (d) of the Act.

“Discharge permit” means a wastewater discharge permit used by the city to control the discharge from industrial users.

“Domestic waste” means wastewater derived from ordinary living processes, free from process wastewater and which will permit satisfactory disposal without special treatment into the city sewerage system.

“EPA” means the United States Environmental Protection Agency.

“Garbage” means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

“Grab sample” means a sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

“Industrial user” means any person which is a non-domestic source of discharge.

“Industrial wastes” means the liquid wastes from any nonresidential user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under the following divisions:

Division A: Agriculture, Forestry, and Fishing

Division B: Mining

Division D: Manufacturing

Division E: Transportation, Communications, Electric, Gas, and Sanitary Services

Division I: Services

A user in the divisions listed may be excluded if it is determined that it will introduce primarily segregated domestic water or wastes from sanitary conveniences.

“Immediate” or “immediately” means as soon as reasonably possible but in no event longer than twenty-four (24) hours.

“Interference” means a discharge which, alone or in conjunction with a discharge or discharges from other sources, either:

13.12.010

1. Inhibits or disrupts the city, its treatment processes or operations, or its sludge processes, use or disposal; or

2. 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) 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, or regulations promulgated by the city manager.

"Mobile waste hauler" means a person who, by contract or otherwise, collects wastewater, including domestic waste and septage waste, for transportation to and discharge into any portion of the city sewerage system.

"Natural outlet" means any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

"New significant nonresidential user" means any person discharging from any building, structure, facility or installation (source), the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility or installation is constructed at a site at which no other source is located; or

2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

3. The production of 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;

4. Construction on a site at which an existing user 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 paragraphs (b) or (c) of this subdivision but otherwise alters, replaces, or adds to existing process or production equipment. Construction of a new source as defined under this paragraph has commenced if the owner or operator:

a. Has begun, or caused to begin as part of a continuous on-site 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 subdivision.

“NPDES permit” means a National Pollution Discharge Elimination System permit issued pursuant to ORS 468.740 and the Act.

“Parts per million (ppm)” means the number of pounds (or grams) of solute per million pounds (or grams) of solution. Same as mg/L for solutions of water.

“Pass through” means a discharge which exits the city sewerage system into waters of the United States or state 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 sewerage system or city’s NPDES permit (including an increase in the magnitude or duration of a violation.)

“Person” means any individual, partnership, joint-venture, firm, company, cooperative, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity. The masculine gender shall include the feminine and the singular shall include the plural.

“pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Plumbing Inspector. See “Building inspector.”

“Pollutant” means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, agricultural wastes, biological wastes, radioactive materials, heat, wrecked or discarded equipment, rock, sand, dirt, certain characteristics of wastewater in excess of specified state, federal or local standards or NPDES permit limits.

“Pollution” means the alteration of the chemical, physical, biological or radiological state of water.

“Pretreatment” or “treatment” means the reduction of the amount of pollutants, the elimination of pollutants, or alternation of the nature of pollutant properties in wastewater prior to or in lieu of discharging, or otherwise introducing such pollutants into the city’s sewerage system. The reduction or alternation may include industrial process charges, except as prohibited by 40 CFR 403.6(d), pursuant to 40 CFR 403.3(q).

“Pretreatment requirement” means any substantive or procedural requirement related to pretreatment, other than national pretreatment standards, imposed on an industrial user.

“Process wastewater” means water which, during manufacturing or processing, comes into contact with or results from the production of or use of any raw material, intermediate product, finished product, byproduct or waste product.

“Properly shredded garbage” means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

13.12.010

“Property owner” means any person who owns all or part of a fee simple absolute, defeasible fee, life estate, or purchaser’s interest under a land sale contract, individually, in tenancy by the entirety, or as a tenant in common.

“Public-owned treatment plant (POTW)” means that portion of the city sewerage system which is designed to provide treatment, including recycling and reclamation, of municipal sewage and nonresidential waste.

“Public works director” means the person authorized by city council to oversee all municipal infrastructure, which includes water, sanitary sewer, drainage and parks.

“Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

“Residential user” means persons contributing only domestic sewage to the city sewerage system.

“Restricted substance” means pollutants listed in Section 13.12.290, or as prescribed by the city manager pursuant to Section 13.12.300.

“Sample” means any portion of wastewater representing a discharge, which may be a grab sample, or a composite of several samples representing the sewer discharge over a period of time.

“Sanitary sewer” means a sewer which carries sewage and to which storm, surface and groundwater are not intentionally admitted.

“Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and stormwaters as may be present.

Sewage Treatment Plant. See “Public-owned treatment plant.”

“Sewer” means a pipe or conduit for carrying sewage.

“Septage waste” means domestic waste extracted from a sewage containment system.

“Septic tank effluent pump (STEP) system” means a pressure sewer system that transports septic tank effluent to sanitary sewer by means of a pump.

“Shall” is mandatory. “May” is permissive.

“SIC number” means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

“Significant industrial” or “nonresidential user” means any industrial user which:

1. Is subject to categorical pretreatment standards under 40 CFR. 403.6 and 40 CFR Chapter I, Subchapter N or rules promulgated by the city manager; or
2. Has significant amount of toxic pollutants in its wastewater, as determined by the city manager; or
3. Discharges an average of at least twenty-five thousand (25,000) gallons per day of wastewater (excluding domestic waste) in any period of twelve (12) consecutive calendar months; or
4. Discharges water, including wastewater which on any day in any period of twelve (12) consecutive calendar months constitutes at least five percent of the average daily dry weather hydraulic or organic capacity of the POTW; or

5. Is determined by the city manager to have a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards.

“Slug load” means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five times the average twenty-four (24) hour concentration of flows during normal operation.

“Standards” means the limitations and requirements established by federal, state and local laws and regulations for discharges to the POTW.

“STEP system” means a septic tank effluent pumping system. A STEP system includes septic tanks, pumps, pump controls and other equipment, hardware, and components and improvements that are necessary for installation and operation of the system, except the building sewer.

“Storm drain” means a sewer (sometimes termed “storm sewer”) which carries storm-water runoff and other drainage waters from precipitation, and surface waters only.

“Superintendent” means the water and sewer superintendent of the city or his authorized deputy, agent or representative.

“System development charge (SDC)” means system development charges are assessed against new development to recover the costs incurred by the city which provides the capital facilities required to serve the new development.

“Total suspended solids (TSS)” means the total elements and compounds which float on the surface of, or are suspended in, wastewater and which are removable by laboratory filtration; EPA Method 160.2.

“Toxic pollutant” means any pollutant or combination of pollutants identified pursuant to Section 307 (33 U.S.C. 1317) and Section 502 of the Act or otherwise listed as toxic in regulations previously promulgated by the EPA, or as identified by the city manager.

“User” means any person who contributes, or causes or allows the contribution of sewage or industrial wastewater into the city sewerage system, including persons who contribute such waste sources from mobile waste haulers.

Utilities Director. See “Public works director.”

“Wastewater” means liquid or water-carried pollutants including any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is discharged, flows or infiltrates into the city sewerage system.

“Wastewater discharge permit” means a permit issued pursuant to Section 13.12.390.

“Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently. (Ord. 924 § 1, 2001; Ord. 876 § 1.30, 1997)

13.12.020

Ownership of sanitary sewer system.

The city of Sutherlin owns, operates and maintains the city sanitary sewer system in behalf of the residents and commercial enterprises of the city. (Ord. 876 § 1.40, 1997)

13.12.030

13.12.030

Legal authority and implementation.

This chapter grants the city the legal authority to regulate and implement rules, codes, and regulations for proper operation of the city sewerage system as authorized by Oregon Revised Statutes (ORS). Proper operation includes, but is not limited to, establishing prohibitions and limitations on wastewater discharges, establishing standards for discharges, and for construction of facilities, providing for ordinance administration and enforcement, establishing fees, charges and cost recovery procedures, and establishing an effective date.

The city manager is authorized to promulgate such rules, codes and regulations as may be deemed necessary or proper to carry out the purposes or provisions of this chapter. Nothing in this chapter shall prevent the city manager from seeking judicial or governmental agency assistance to implement the purposes and provisions of this chapter. (Ord. 876 § 1.50, 1997)

13.12.040

Amendments.

The Sutherlin sanitary sewer ordinance may be amended, changed, repealed or added thereto, as authorized by ORS. (Ord. 876 § 1.60, 1997)

Article 2. Use of Public Sewers Required

13.12.050

Sanitary disposal required.

It is unlawful for any person to place, deposit, or permit to be deposited in any manner which results in unsanitary conditions on public or private property within the city, or in any area under the jurisdiction of the city, any human excrement, garbage or other objectionable waste. (Ord. 876 § 2.10, 1997)

13.12.060

Proper sewage discharge required.

It is unlawful to discharge to any natural outlet or storm drain within the city, or within the urban service area, any sewage or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter. (Ord. 876 § 2.20, 1997)

13.12.070**Construction of sewage disposal facilities.**

Except as hereinafter provided, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage within the corporate limits of the city. (Ord. 876 § 2.30, 1997)

13.12.080**Connection to city sewer required.**

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose situated within the city and within three hundred (300) feet of and accessible to any public sanitary sewer is required, at his expense, to install suitable toilet facilities therein, and to connect such facilities directly with the public sewer. (Ord. 876 § 2.40, 1997)

13.12.090**City may require connection.**

Whenever the public health or safety requires that any premises or building be connected to the sanitary sewer as provided in the preceding section, the utilities director shall serve upon the owner, agent or occupant of the premises a notice in writing, specifying the time within which such connection must be made, which time shall not be more than sixty (60) days from the date of service of such notice. If such owner, agent or occupant shall fail, neglect or refuse to connect the premises or building with the public sanitary sewer within the time specified in such notice, the city may make such connection and the cost thereof shall be assessed against the property so connected and the amount thereof shall become a lien upon the premises so connected. The city attorney is authorized, empowered and directed to collect the amount of the cost either by the foreclosure of the lien or by a suit against the owner or occupant of the premises, which suit shall be maintained in the name of the city as plaintiff in any court of competent jurisdiction. (Ord. 876 § 2.50, 1997)

Article 3. Building Sewers and Connections**13.12.100****Sewer permit required.**

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city, as described in Section 13.12.110. Furthermore, no person shall alter, relay or add to an existing building sewer that has been previously connected to the public sewer system without first obtaining a written permit from the city. (Ord. 876 § 3.10, 1997)

13.12.110

13.12.110

Building sewer permit types and costs.

There shall be two classes of building sewer permits: (a) for residential and commercial service; and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the utilities director. A permit and inspection fee, as defined in Article 9 of this chapter, shall be paid to the city at the time the application is filed. (Ord. 876 § 3.20, 1997)

13.12.120

Permits to be displayed.

The permits from the city required under the terms of this chapter must be displayed in a conspicuous place at or near the work at all times during the performance of the work and until the inspection and acceptance by the city. It shall be the duty of the utilities director or other authorized city official in case they find any person engaged in the work of breaking ground for the purpose of making connection to a public or private sewer, to ascertain if such person has a permit from the utilities director's office; and in the event that such person has no permit for making such connection, the work shall forthwith be stopped and not again resumed until a permit has been secured. (Ord. 876 § 3.30, 1997)

13.12.130

Proper installation required.

If any work done under a permit granted by the city is not in accordance with the provisions of this chapter, and if the installer doing the work shall refuse to construct properly and complete such work, notice of such failure or refusal shall be given to the installer stating the nature of the violation and providing a reasonable time for corrections thereof. The installer shall, within the period of time stated in such notice, correct and complete the work. In the event the work is not so corrected and completed within the stated time, the city may cause the work to be completed if, in its opinion, the failure constitutes a hazard to safety or health, and the cost of such work and any materials necessary therefore shall be charged to the installer and shall be payable by the installer immediately upon notice and demand thereof given to the installer. (Ord. 876 § 3.40, 1997)

13.12.140

Contractor's license.

A person engaged in the business of making connections to a public sewer shall be licensed and bonded by the state of Oregon. An applicant shall be required to furnish a bond in an amount designated by the utilities director, for the purpose of guaranteeing the quality of the work and to protect the city against damage to the streets, alleys or sidewalks. Nothing in this section shall be

construed to prohibit an individual property owner from constructing his own building sewer in compliance with the requirements of this chapter. (Ord. 876 § 3.50, 1997)

13.12.150

Separate building sewers required.

A separate and independent building sewer shall be provided for every building, except where a residential accessory building is developed on the same tax lot. Such new developments are not exempt from permit requirements and system development charges (SDCs). (Ord. 876 § 3.60, 1997)

13.12.160

Owner responsible for connection cost.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Ord. 876 § 3.70, 1997)

13.12.170

Connection fees.

Before any property that is to be serviced through the city sewerage system is connected to the system, the property owner shall pay to the city a connection fee. If the city sewer line does not already contain a “wye” in the sewer line so that it will necessitate breaking into the sewer line to make proper and appropriate connection, an additional fee will be charged as a “break-in fee.” In addition to the fees, when the city installs a sewer lateral from the sewer line to the property line, the property owner will pay to the city an additional sum. The payment will be made when the property owner requests the city to install the service. Fees discussed in this section are specified in Article 9 of this chapter. (Ord. 876 § 3.80, 1997)

13.12.180

Service to properties outside city limits.

The city is authorized to provide sewer service outside the corporate boundaries of the city and within the urban growth boundary. Before any property outside the corporate limits of the city and within the urban growth boundary is connected to the city sewerage system, the property owner must first receive council approval in addition to securing the necessary permits. Any sewer connection for commercial or industrial business operating, or intending to operate, outside the corporate city limits is prohibited, unless approval for such connection is specifically granted by the city council. (Ord. 876 § 3.90, 1997)

13.12.190

13.12.190

Standards for connection to public sewer.

The connection of the building sewer into the public sewer shall conform to the city's standard specifications for street, water, storm drainage and sanitary sewer improvements, the requirements of the current building and plumbing codes or other applicable rules and regulations of the city, and with procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the utilities director before installation. (Ord. 876 § 3.100, 1997)

13.12.200

Surface protection and restoration of excavations required.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. All laws, regulations and standards of the state or county shall be complied with related to safety and protection of the area affected. (Ord. 876 § 3.110, 1997)

13.12.210

Requirements of old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the utilities director to meet all requirements of this chapter. (Ord. 876 § 3.120, 1997)

13.12.220

Building sewer prohibitions.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (Ord. 876 § 3.130, 1997)

13.12.230

Construction of sewers.

A. No person, other than the city or a sewer contractor licensed by the city, shall at any time cut into or damage any public sewer or connect to a "wye" on the public sewer.

B. The connection of the building sewer into the public sewer shall be made at a wye branch if available at a suitable location. The location and depth of wyes are on file with the city. The city does not guarantee the accuracy of the locations and depths.

C. Where no properly located “wye” branch is available for connection to the public sewer, the city shall direct the installer to construct a “wye” in the public sewer.

D. The first fitting at the connection with the public sewer and the building sewer shall be PVC tee, furnished by the owner. The tee branch shall extend vertically to within one foot of the finished ground surface and shall be sealed with an approved cap or plug. The riser shall be used for inserting a test plug for water testing of the building sewer and as an auxiliary cleanout. Backfilling around the riser shall be done in such a manner so as not to damage the pipe.

E. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

F. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the Oregon State Plumbing Specialty Code, or other applicable rules and regulations of the city. In the absence of code provisions set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply. Construction of sanitary sewers shall meet the state minimum requirements as defined by Oregon Administrative Rules 340-52 (Attachment A).

G. Pipes acceptable for sewers shall have approved rubber ring joints and are as follows:

| Type of Pipe | Minimum Diameter | Pipe Specifications | Type of Joint | Joint Specifications |
|---|------------------|------------------------|--------------------|----------------------|
| Cast iron water | 4" | ANSI A 21.6 (Class 22) | Tyton joint | ANSI A 21.11 |
| Cast iron soil pipe service weight bell and spigot | 4" | ASTM A 74-72 | Compression gasket | ASTM C-564-70 |
| Cast iron soil pipe service weight hubless | 4" | ASTM A 74-72 | No hub connector | ASTM C-564-70 |
| Polyvinyl chloride (PVC) pipe | 4" | ASTM D 3034 | Rubber gasket | ASTM D 1784 |
| Polyvinyl chloride (PVC) pipe | 6" | ASTM D 3034 | Rubber gasket | ASTM D 1784 |
| Abbreviations: ANSI — American National Standards Institute ASTM — American Society for Testing and Materials | | | | |

13.12.240

H. Building sewers shall in no case be less than four inches in diameter. If the fall from the house to the “wye” is less than two percent the pipe must be not less than six inches in diameter. Building sewers shall be laid on not less than a grade of one percent or about one-eighth inches drop per foot and where possible have not less than four feet cover at the curb line, eighteen (18) inches at the property line and twelve (12) inches inside the property line.

I. The building sewer shall be laid at uniform grade and in straight alignment insofar as is possible. All changes in direction shall be made in accordance with the latest edition of the Oregon State Plumbing Specialty Code. No forty-five (45) degree or ninety (90) degree short radius elbows shall be used for changes in direction.

J. All building sewer pipes except PVC shall be bedded on four inches of 3/4-0 inch crushed rock on all sides; sewer pipes constructed of PVC shall be bedded with six inches of 3/4-0 crushed rock on all sides.

K. All joints and connections made in the building sewer shall be made watertight and gastight. (Ord. 876 § 3.140, 1997)

13.12.240

Inspection and testing of building sewers.

A. The applicant for the building sewer permit shall notify the utilities director when the building sewer is ready for inspection and connection to the public sewer. Approval of the building sewer by the building inspector shall be granted only after the building sewer is proven watertight at all points in accordance with the requirements described in the following section and/or the Oregon State Plumbing Specialty Code.

B. A hydrostatic test lasting thirty (30) minutes is required on all building sewers before connection to the public sewer or to the building drain. The test shall be performed in the presence of the building inspector. Building sewers shall be tested before backfilling by plugging the end of the building sewer at its point of connection with the public sewer and completely filling the building sewer with water from the lowest to the highest point thereof. Minimum head over the top of the pipe shall be two feet and the maximum allowable leakage shall be four gallons per hour per one hundred (100) feet of building sewer. (Ord. 876 § 3.150, 1997)

13.12.250

Water line crossings.

Parallel water and sewer lines wherever possible shall be laid at least ten feet apart horizontally. Where it is necessary for sewer and water lines to cross each other, the crossing shall be made at an angle of approximately ninety (90) degrees and the sewer shall be located three or more feet below the waterline if possible. All rules, regulations, and standards shall be met as set forth by the Oregon Health Division in Oregon Administrative Rules 333-61. (Ord. 876 § 3.160, 1997)

13.12.260**STEP systems.**

A. A STEP system may be permitted as an alternative to the standard sewer gravity system in accordance with this section, as well as the general requirements of this chapter, unless superseded by this section. No person shall construct a new STEP system; expand the area served by an existing STEP system; reconstruct or alter an existing STEP system; or connect a building sewer to an existing STEP system, except as allowed by this section.

B. The city will adopt and periodically update a specifications manual for STEP systems which contains technical specifications and construction standards for all new installations and extensions of existing systems. The specifications manual must conform to standards and guidelines adopted by the Oregon Department of Environmental Quality. The specifications manual shall require a STEP system to be designed and constructed so as to exclude infiltration and inflow of non-sewage wastewater.

C. The city will maintain ultimate control over design, equipment and materials selection, installation, operation and maintenance of STEP systems. The city will enter into one or more contracts with qualified contractors for supplying materials and equipment for STEP systems that conform to the city's specifications and for installing STEP systems. The city also will maintain a list of approved sources of materials and equipment and a list of contractors who are qualified to install STEP systems in accordance with this section. A STEP system must use approved equipment and materials and be installed under a contract between the city and the installation contractor or under a discrete contract between a property owner and an approved contractor.

D. Installation of a STEP system is subject to the following conditions:

1. The owner of property that may be served by the STEP system shall submit an application to install the STEP system to the city manager in a form provided by the city. The property owner shall submit adequate plans and specifications with the application which conform to the standards and specifications required by the city in its specifications manual.

2. The property owner shall state in the application whether the STEP system is to be installed under a contract between the city and a contractor or a contract between the property owner and a contractor approved by the city. If the property owner elects to contract for installation directly, the application shall state that the property owner will defend and indemnify the city from any claims arising from the installation of the STEP system. If the city manager determines that the application conforms to the city's requirements, the city manager may preliminarily approve the application in writing. Final approval will be subject to the property owner's compliance with conditions stated in this section.

3. Upon receiving preliminary approval of the application, the property owner shall sign and acknowledge an easement agreement in a form provided by the city which grants to the city the right to enter upon the benefitted property to inspect, operate, repair, replace, and maintain the STEP system and to remove sludge. The easement agreement shall state that the STEP system is the sole property of the city. The easement agreement will allow the property owner to use the surface of the property for any purposes which will not interfere with the easement; provided, that the property owner does not construct any structures or other permanent improvements over any

13.12.260

components of the STEP system. The easement agreement shall state that the city will not be responsible for any damage to landscaping which may result from exercising its rights under the easement agreement. The easement agreement must be delivered to the city manager prior to installation of the STEP system. The easement agreement will be recorded upon final approval of the STEP system.

4. If the property owner elects to have the city contract for installation of the STEP system, the city may require the property owner to pay a deposit to cover the cost of installation before the city proceeds with installation. Upon completion of the system, if the city manager determines that the STEP system conforms the provisions of this section, the specifications manual, and the terms of the preliminarily approved application, the city manager will accord final written approval of the application and accept the STEP system as part of the city sewerage system. If the cost of installation exceeds the amount of any deposit paid by the property owner, the property owner shall immediately reimburse the city for the difference. If the amount of any deposit paid by the property owner exceeds the cost of installation, the city may apply any difference to other amounts payable by the property owner under this chapter, and otherwise, the city will refund the difference to the property owner.

5. If the property owner elects to install a STEP system through a contract between the property owner and an approved contractor, the installation contract must be written and must incorporate the city's specifications manual. The contract must be approved in writing by the city manager before work begins. The contract must provide that the city may intervene and stop work under the contract if the city manager determines that the work is not being performed in accordance with this chapter or the specifications manual. The city will not be a party to the contract and will not be obligated to pay the contractor for any work. The contract shall state that components of the STEP system are property of the city and will not be subject to any construction lien. All work performed under the contract will be subject to inspection and approval by the city.

6. If the property owner contracts for installation of the STEP system, upon completion of the work in accordance with this section, the property owner may request final approval of the system. If the city manager determines that the STEP system conforms to the provisions of this section, the specifications manual, and the terms of the preliminarily approved application, the city manager will accord final written approval of the application and accept the STEP system as part of the city sewerage system.

E. Upon final approval of the STEP system by the city, the city shall own, operate and maintain the system from the point of the inlet to the STEP septic tank. The city shall be responsible for all costs necessary to operate and maintain the STEP system, including, but not limited to, periodic maintenance, septage pumping, and all necessary repairs or capital improvements required to keep the STEP system in good working condition. The property owner shall provide electricity to operate the STEP system. The building sewer from the benefitted structure to the inlet of the STEP septic tank shall be owned and maintained by the property owner.

F. If a STEP system becomes inoperable because of failure of the property owner to pay the electrical costs for operating, repairing or maintaining the system, the manager may declare the property benefitted to be unfit for human habitation. At least five days prior to issuing such a declaration, the city shall send written notice to the property owner and the occupant, if different from the property owner. The property owner or occupant may request a hearing before the city manager prior to the issuance of such declaration. The decision of the city manager shall be final. All occupants shall have twenty-four (24) hours from the issuance of the declaration to vacate the premises. Premises shall remain uninhabited until the system is restored to operation and the city manager rescinds the declaration in writing.

13.12.270

G. No person, including the property owner or occupant, shall cover or obstruct access to the tank, or undertake any alteration or repair of a STEP system after it has been accepted by the city, or otherwise tamper with the STEP system or any of its components, without prior written approval from the city. Any damage caused to the STEP system by the property owner, the occupant or the agents or invitees of the property owner or occupant, will be repaired by the city at the property owner's expense. In addition to these costs of repair, the city may impose any other penalties established by this chapter.

H. The city will establish a separate surcharge for operating a STEP system by resolution in order to recover all costs related to such system's operational costs.

I. The city shall maintain sufficient records and inventory of parts satisfactory to DEQ as follows:

1. The city shall maintain an operations and maintenance manual for all STEP systems, and shall maintain adequate records of work performed on all installed STEP systems by lot number, tank number and address. The manual shall require an annual inspection of each tank and measurement of sludge depth; annual inspection and cleaning of pump filters; and sludge removal as needed.

2. The city shall maintain an adequate inventory of spare parts, including spare pumps, piping, electrical controls, and valves. Inventory requirements shall be specified in the operations and maintenance manual.

3. The city may contract with qualified suppliers and contractors to maintain the inventory required by this section and to provide maintenance and repairs to a STEP system.

J. If a STEP system results in foul odor or hydrogen sulfide levels above one ppm in the gravity-flow sewer, the city manager shall have odor control equipment installed and charge the property owner for the cost of materials and installation. (Ord. 924 § 2, 2001; Ord. 876 § 3.170, 1997)

13.12.270

Sewer main extensions.

A. It shall be the responsibility of the applicant or developer to provide adequate sewer main extensions for any proposed project within the city. All costs of installation of the extensions, including but not limited to engineering, materials and constructions, shall be borne by the developer. In those instances where the extension(s) directly benefit adjacent properties, the developer may request a sharing of the costs with the benefitted property owners through two methods of alternative financing defined in Section 13.12.280; methods include formation of a local improvement district or arrangement by dedicated account.

B. All extensions of sewer mains shall be constructed so that they extend and terminate at the boundary of the last property owner serviced by the extension and the next abutting property owner not yet serviced by the city sewerage system. If there is an intersecting street between the property owners, the termination shall be at the middle of the intersecting street. In no event shall a property owner be permitted to connect to the city sewerage system unless and until the city sewer line is extended as provided in this subsection.

C. Before commencement of construction, the applicant shall provide the city with properly executed easements on a form approved by the city, providing the city a perpetual right to maintain any portion of the proposed sewer main extension where the same crosses private property. If the applicant is unable to obtain all necessary easements, the city council in its discretion, may exercise the city's power of eminent domain to obtain such easements. Before commencing a proceeding to acquire an easement by eminent domain, the applicant shall post a bond or deposit with the city guaranteeing that the city will be reimbursed for the cost of acquisition of the easement and all legal and engineering costs in connection with such acquisition of easement.

D. Extension of the public sewer to serve any parcel or tract of land shall be done by and at the expense of the owner, although the city reserves the right to perform the work and bill the owner for the cost thereof to perform the work itself, or to perform the work pursuant to special assessment proceedings.

E. Each sewer main extension shall be installed in accordance with the city standards, and as approved by the utilities director. The size of the sewer mains and other sewerage facilities shall be determined by the city. The installing contractor for the sewer main extension shall be experienced in the construction of sewers and be approved by the utilities director. The city, through its engineers and inspectors shall inspect the construction, and the engineers and inspectors shall have complete authority over the persons performing the construction work insofar as enforcement of city standards and approved plans and specifications are concerned. The utilities director shall have the authority to stop work whenever such stoppage may be necessary to insure the proper execution of the proposed sewer main extension in accordance with the city standards and approved plans and specifications.

F. As-built drawings shall be provided to the city by the contractor performing the construction work within fifteen (15) days of completion of the work or acceptance of work by the city. Contractor bond(s) will be held until as-built drawings are submitted and approved by the utilities director.

G. Upon completion of the sewer main extension and approval and acceptance thereof by the city, the applicant shall execute and deliver to the city a bill of sale or other document in the form approved by the city transferring all right and title of the sewer main extension to the city. At the same time, the applicant shall provide a sufficient bond or deposit guaranteeing the work against any defects of labor and material for a period of one year from the date of acceptance by the city. Upon acceptance of the sewer main extension and the security for the one year guarantee by the city, the sewer main extension shall be incorporated into the city's sewerage system and shall be maintained by the city subject to the guarantee requirement of the first year. (Ord. 1013 § 1, 2011; Ord. 876 § 3.180, 1997)

13.12.280

Financing of sewer main extensions.

A. Financing of Extensions. It shall be the responsibility of any developer to provide adequate sewage main extensions for any proposed project within the city. All costs for installation of the extensions, including but not limited to engineering, materials and construction, shall be borne by the developer. In those instances where the extension(s) directly benefits adjacent properties, the developer may request a sharing of costs with the benefitted property owners through two methods of alternative financing:

1. Local Improvement District. When a majority of adjacent property owners agree to share in financing the cost of the project, the developer may petition the city council for the formation of a local improvement district in accordance with subsection E of this section.

2. Dedicated Account. If the entirety of adjacent property owners to be benefitted by the extension(s) wish to participate in a prorated sharing of the financing costs of the project, a dedicated account shall be established by the benefitted property owners in accordance with subsection F of this section.

3. Installation Requirements. Developers and installers of any and all sewage main extensions must meet minimum prequalified standards and material specifications set by the city. These standards shall include, but are not limited to, insurance requirements, bonding requirements and experience in the field of sewage line installation. The extensions must be installed in accordance with the city's specifications which are available upon request.

B. Performance Guarantee. If the developer installs and purchases the material, the developer must guarantee the project for a period of one year from the date of acceptance of the project by the city. The developer shall be required to either deposit a cash amount equal to ten percent of the total project cost in a dedicated account established for the purposes of this subsection and maintained for the one-year guarantee period, or to provide a performance (surety) bond in the amount of ten percent of the total project cost as a guarantee. Any corrections necessary to bring the project into compliance with the city's specifications during the one-year period will be paid from the dedicated account or the performance (surety) bond. The performance (surety) bond shall be released to the developer within thirty (30) days following the termination of the guarantee period.

C. Reimbursements. The developer may be entitled to reimbursements in the areas where the developer is solely required to extend mains through or adjacent to properties not within the developer's project and which properties are substantially benefitted by the extension(s). Except as otherwise provided in this subsection, the entitlement period shall not exceed ten years following installation of the project extensions. At the city manager's sole discretion, the entitlement period may be extended for up to an additional ten years. Entitlement to reimbursement shall further be allowed to property owners who share in the financing costs of the project pursuant to subsection F of this section on a prorated basis when subsequent users connect to the extension within the entitlement period.

1. Connection Charge. A charge shall be imposed upon adjacent properties which subsequently connect to a main sewer extension. Such connection charge must be assessed and paid in full before a benefitted adjacent property is entitled to receive sewage services.

2. Calculation of Connection Charge. The wastewater connection charge normally will be based upon an area formula consisting of proportionately equal connection charges, to be calculated as follows:

$$\frac{(Total\ project\ costs) \times (Area\ of\ property\ requesting\ service)}{(Total\ area\ served\ by\ the\ extension)}$$

The area shall be based upon the product of the front footage times the depth of the lots benefitted. In areas where no established lot exists, the depth shall be one hundred fifty (150) feet or a logical approximation of the depths to be served, as established by the director. The total costs of the project shall cover all costs related to the project including material, installation, inspection, engineering and overhead.

3. Competitive Bids. Prior to construction of the extension, the developer or developer's contractor must furnish the director with a cost estimation for the project. If the director determines that the cost projection is abnormally high relative to engineering estimates of similar projects, he may require the developer to furnish two competitive bids, and the developer will be entitled to reimbursement at a rate no higher than the lowest bid. Failure by the developer to submit the required competitive bids may disqualify the developer from entitlement to refunds provided for in this section.

4. Interest. No interest will be allowed in computing the total cost of reimbursement entitlement.

D. Exclusion of Subdividers. The provisions for reimbursement of construction costs of sewage main extensions herein established in this chapter shall not apply to subdividers to the extent the extension is within the boundaries of a subdivision, planned community, or condominium projects as described under Chapters 92, 94 and 100 of Oregon Revised Statutes.

E. Local Improvements—Assessment Procedures.

1. When consistent with city policies, local improvement districts may be formed and bonds sold to fund main sewage and/or storm drainage extensions, provided the property lies within the city and a majority of benefitted property owners are in agreement with the project. The formation of a local improvement district shall proceed under subsection G of this section.

2. Before the council levies any assessment for a local sewer improvement, the city council or its designee shall hold a public hearing and consider comments on the proposed assessments. At the hearing the director shall provide an assessment report stating:

a. The total cost, if known, or an estimate of the total cost of the improvement, the amount of that cost to be assessed against each benefitted real property owner, and the amount to be borne by the city, if any;

b. The method of calculating the assessments for the improvement;

c. A description of each parcel of real property to be assessed, the name of its owner, and the total projected semi-annual assessment, including interest, that is amortized over contract periods of either five- or ten-year terms;

d. Certification that notice of the proposed assessment was given by registered mail to the affected property owners no less than ten days prior to the hearing.

3. After considering evidence and argument presented at the hearing, the council shall make findings regarding compliance with this section, and other applicable rules and regulations, and thereafter determine the special benefit each parcel of affected real property receives from the local improvement(s). The findings shall be adopted in the ordinance levying the assessments. If during the review of the proposed assessment the council or its designee determines that a proposed assessment should be increased, a new notice of the increased proposed assessment, and

an opportunity for comment thereon, shall be given to each owner of affected real property before the increased proposed assessment is levied.

4. The city council shall by ordinance levy assessments on parcels of real property specially benefitted by local improvements. Upon enactment of such an ordinance, the city recorder by registered mail shall give notice of the assessments to the owners of the assessed parcels. The notice shall state that each assessment may be paid in full, without interest, within ten days after the effective date of the assessment ordinance and that, if the assessment is not so paid, interest on the unpaid balance of the assessment will accrue as prescribed in the assessment ordinance until the assessment is paid in full. The notice shall also state that the assessment may be paid in installments according to the terms set forth in the assessment ordinance, and shall include an application for so paying the assessment.

5. Unless otherwise specified by the assessment ordinance, reference in this section to making payments in installments shall mean paying the obligation in accordance with the Bancroft Bonding Act by means of up to twenty (20) equal semiannual installments including principal and interest at twelve (12) percent per annum.

F. Contract of Agreement. A written agreement between the developer and the city outlining the criteria prescribed in subsections C and D of this section must be signed prior to starting construction of the project. Thereafter a dedicated account shall be established at a financial institution for the purpose of retaining monies collected by the property owners who participate, and payment to the developer or developer's contractor shall be through that dedicated account.

G. Equivalent Assessment.

1. Any owner of real property which can be served by an already installed city main sewage extension constructed by the city (and not paid by a developer) shall pay to the city finance officer an equivalent assessment and any other fees required by the city, including but not limited to connection fees and system development charges, before connecting to municipal wastewater service. The equivalent assessment shall be determined by the city engineer based on the greater of:

- a. The cost of constructing sewer facilities to which connection is proposed; or
- b. The cost identified in the above subsection, plus the amount such costs have increased as reflected in a regionally or nationally published construction cost index which most closely reflects the change in construction costs in Sutherlin. As used in this subsection, "cost" includes engineering costs, material costs, installation costs and inspection costs initially paid by the city.

2. In lieu of paying the equivalent assessment at the time of connection, an owner of real property to be connected to a sewage collection or main extension line may execute and deliver to the city finance officer an agreement to pay the equivalent assessment in installments. The city finance officer may accept the owner's agreement to pay only if it is consistent with the limit allowed for payment of similar local improvement assessment under the Bancroft Bonding Act. Equivalent assessments paid as provided in this subsection are hereby declared a lien against the real property and shall be docketed in the lien docket of the city and may be foreclosed in the same manner as a local improvement assessment lien.

3. The equivalent assessment required by this section shall not be applicable when the sewage collection line to which the property owner seeks connection has been in public service for a duration of more than five years.

H. Notice to Abutting Property Owners. Thirty (30) days prior to construction of the project, the city shall notify all property owners located within two hundred (200) feet of the main extension(s), and any other property owner of record who, in the determination of the director, may be benefitted by a future connection. The notification shall be in writing and sent by certified mail. In addition to a brief description of the project and its cost estimates, the notice shall further include a copy of this section. The city recorder shall keep a record of the names and addresses of the property owners receiving notification for a period of not less than two years from the date of mailing of the notice. (Ord. 1013 § 2, 2011; Ord. 876 § 3.190, 1997)

Article 4. Use of the Public Sewers

13.12.290

General discharge prohibitions.

No person shall discharge, or cause or permit to be discharged, directly or indirectly, into any public sewer or tributary sewer thereto any pollutant or wastewater which will cause interference with the operation or performance of the city sewerage system, pass through into the receiving waters, threaten or have the potential to threaten worker safety, or cause the effluent of the city treatment plant to violate any federal, state or local standards, laws, or permits, including but not limited to any of the following substances:

A. Any liquids, solids or gases which either alone, or in combination with other pollutants, may support combustion or create a fire or explosion, or be injurious in any other way to the city sewerage system or its operations, including but not limited to: gasoline, kerosene, benzene, naphtha, toluene, xylene, alcohols, ethers, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the city sewerage system, or at any point in the system, be more than five percent nor shall any single reading be more than ten percent of the lower explosive limit (LEL) of the meter;

B. Any wastewater having a pH less than 5.5 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the city sewerage system. Prohibited wastes include, but are not limited to: concentrated acids, alkalis, chlorides, sulfides and fluoride compounds or any iron pickling wastes or concentrated plating solutions whether neutralized or not;

C. Any solid or viscous substances, which either alone or in combination with other pollutants are capable of causing obstruction to the flow in the city sewerage system or other interference with proper operation of the city sewerage system, including, but not limited to: any floatable grease, oil, fat or wax; any garbage that has not been properly ground or comminuted to such a degree that all particles float or carry freely in suspension under flow conditions normally prevalent in the city sewerage system, and which contain particles of a size not greater than one-half inch in any dimension; animal guts or tissues; paunch manure; whole blood; bones, hair, hides or

fleshings; recognizable portions of the human anatomy; tissue fluids; entrails; ashes; cinders; sand; mud; straw; wood; grass clippings; spent lime; stone or marble dust; metal; glass; rags; feathers; tar; asphalt residues; glass grinding or polishing wastes; plastics; spent hops or grains; waste bulk solids; or Styrofoam and residues from refining or processing of fuel or lubricating oil;

D. Any liquid or waste containing more than one hundred (100) mg/L, by weight, of fat, oil and/or grease or containing any fat, oil, and/or grease, or other substance which will become solid or visibly viscous at temperatures between thirty-two (32) degrees Fahrenheit and one hundred forty (140) degrees Fahrenheit;

E. Any wastewater containing pollutants which result in the presence of toxic gases, vapors, or fumes within the city sewerage system in a quantity, either alone or in combination with other pollutants, that may pass through, injure or interfere with the operation, maintenance, repair or replacement of the city sewerage system, constitutes a hazard to humans or animals, creates a hazard in the receiving waters of the city sewerage system, or exceeds standards promulgated by the EPA pursuant to Section 307(a) of the Clean Water Act, or other Acts, or the state pursuant to any applicable statutory provisions;

F. Any noxious or malodorous liquid, solid or gas which, either alone or in combination with other pollutants, may create a strong or unpleasant odor or air pollution, or is capable of creating a public nuisance or hazard to life or is sufficient to prevent entry into the city sewerage system for operation, maintenance, repair, or other reasons. This includes STEP effluent that exceeds one ppm of hydrogen sulfide;

G. Any water or waste containing substances which are not amenable, or are only partially amenable, to treatment or reduction in concentrations by the city sewerage system, or which cause the city sewerage system effluent to fail to meet the discharge requirements established by the NPDES permit or by any other permit or regulatory agency having jurisdiction;

H. Any substance which may cause the city sewerage system effluent or any other product of the system, such as sludges, residues or scums, to be unsuitable for reclamation and reuse, or which may interfere with the reclamation process of the system, or which may preclude the city from selecting the most cost-effective alternative for sludge disposal, or which may cause the city sewerage system to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 503 of the Act, or other Acts, or the state pursuant to any applicable statutory provisions;

I. Any liquid or vapor having a temperature in excess of one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius) discharged into the city sewerage system which will stimulate excessive biological activity, or results in a temperature of one hundred four (104) degrees Fahrenheit (forty (40) degrees Celsius) of wastewater at its entrance to the treatment plant which will inhibit biological activity;

J. Any trucked or hauled pollutants, liquid waste, domestic waste from recreational vehicles, or sludge from septic tanks, cesspools, chemical toilets, privies, grease traps or grit traps, unless approved by a valid wastewater discharge permit issued by the city (See Article 5 of this chapter),

13.12.300

and disposed of at discharge points designated by the city; no such wastewater sources shall contain formaldehyde or other chemical disinfectants;

K. Any discharge of water or waste which in concentration of any given constituent or in quantity of flow exceeds, for any period of duration longer than fifteen (15) minutes, five times the average twenty-four (24) hour concentration or flow during normal operation;

L. Any unpolluted water including, but not limited to: stormwater runoff, groundwater, surface water, roof runoff, subsurface drainage, uncontaminated cooling water, swimming pool water or unpolluted process wastewater;

M. Any material which contains or causes unusual concentrations of inert suspended solids such as, but not limited to, Fuller's earth, lime slurries and lime residues; or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate; or contains or causes excessive discoloration in the city sewerage system or in the receiving waters such as, but not limited to, dye wastes and vegetable tanning solutions;

N. Any other solid or liquid determined by the city to be detrimental to or have the potential to be detrimental to the city sewerage system. (Ord. 876 § 4.10, 1997)

13.12.300

Restricted substances.

No person shall discharge waste containing restricted substances into the city sewerage system in excess of limitations specified by conditions of its discharge permit or as published by the city. The city manager shall publish and revise from time to time standards which establish limits for specific restricted substances. At all times these standards shall cover and be at least as strict as those for pollutants as defined in state or federal regulations. At its discretion, the city may impose mass limitations in addition to or in place of the concentration based limitations referenced above. Discharge limits or standards in effect and incorporated into any discharge permit shall remain in effect for that permit until it expires, except as modified as provided in Section 13.12.400(D). (Ord. 876 § 4.20, 1997)

13.12.310

Federal Categorical Pretreatment Standards.

Existing, revised, or new Federal Categorical Pretreatment Standards, if more stringent than limitations otherwise imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. Affected nonresidential users shall comply with the appropriate standard within the stated compliance deadline. The city manager shall immediately notify all affected nonresidential users of new or revised applicable standards under 40 CFR Subchapter N, and reporting requirements under 40 CFR 403.12, or any other pertinent rules, regulations, standards or laws, but failure of the city to notify does not relieve such nonresidential users of the obligation to comply with such reporting requirements. (Ord. 876 § 4.30, 1997)

13.12.320

State requirements.

State requirements and limitations on discharges shall apply where they are more stringent than federal requirements and limitations or those of this chapter or other adopted rules, regulations or standards or laws. (Ord. 876 § 4.40, 1997)

13.12.330

TTO reporting requirements.

Those industries which are required by EPA

13.12.340

to eliminate and/or reduce the levels of total toxic organics (TTO) discharged into the city sewerage system shall follow the Federal Effluent Guidelines for that industry. Those industries shall also meet the following requirements of the city:

A. If no TTOs listed from the appropriate categorical pretreatment standard are used at the facility, a signed statement to the effect from the authorized representative of the nonresidential user may be submitted to the city.

B. The industrial user may request an in-lieu-of monitoring certificate statement as worded in the appropriate regulation (40 CFR 413.03). If this alternative is requested, the user must comply with the following requirements:

1. At least one representative sample of the facilities wastestream shall be taken. The sample shall be analyzed for only those pollutants listed in the appropriate regulation that would reasonably be expected to be present.

2. The user shall also submit a solvent management plan that specifies to the city's satisfaction the following:

- a. The toxic organic compounds used;
- b. Method of disposal used instead of dumping; such as reclamation, contract hauling or incineration; and
- c. Procedures for assuring that toxic compounds do not routinely spill or leak into wastestream.

3. The certification report shall be submitted with each report to the city. (Ord. 876 § 4.50, 1997)

13.12.340

Specific pollutant limitations.

No person shall discharge wastewater containing the listed pollutants in excess of the following concentrations:

| Pollutant | Daily Maximum | Monthly Average |
|------------------|----------------------|------------------------|
| Arsenic | 1.5 mg/L | 0.7 mg/L |
| BOD5 | 350 mg/L | 220 mg/L |
| Cadmium, total | 0.3 mg/L | 0.2 mg/L |
| Chromium, total | 2.5 mg/L | 1.5 mg/L |
| Copper, total | 3.1 mg/L | 1.9 mg/L |
| Cyanide | 0.4 mg/L | 0.2 mg/L |
| Lead, total | 0.7 mg/L | 0.4 mg/L |
| Mercury | 0.05 mg/L | 0.02 mg/L |
| Nickel, total | 4.0 mg/L | 1.7 mg/L |
| Phenols, total | 1.0 mg/L | 0.5 mg/L |

| Pollutant | Daily Maximum | Monthly Average |
|------------------------|--------------------------|----------------------------|
| Sulfide, dissolved | 0.5 mg/L | 0.1 mg/L |
| Silver, total | 0.4 mg/L | 0.2 mg/L |
| Total suspended solids | 350 mg/L | 220 mg/L |
| Total toxic organics | 0.50 mg/L | 0.10 mg/L |
| Zinc, total | 5.7 mg/L | 2.0 mg/L |

Additional pollutants or more restrictive maximum concentrations may be required if the material discharged might cause interference with the operation of the POTW, exceeds discharge limits as determined by Federal Categorical Pretreatment Standards as defined in Section 13.12.310, or violates any federal or state laws. (Ord. 876 § 4.60, 1997)

Additional pollutants or more restrictive maximum concentrations may be required if the material discharged might cause interference with the operation of the POTW, exceeds discharge limits as determined by Federal Categorical Pretreatment Standards as defined in Section 13.12.310, or violates any federal or state laws. (Ord. 876 § 4.60, 1997)

13.12.360

Requirements for special removal traps.

Grease, oil and sand interceptors when, in the opinion of the utilities director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful pollutants; except that interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the utilities director, and shall be located as to be readily and easily accessible for cleaning and inspecting. Maintenance of traps shall be through physical removal of waste, and not by chemical treatment. Annual report on maintenance shall be kept by owner of interceptor, and made available to city staff upon request. (Ord. 876 § 4.80, 1997)

13.12.370

Repair requirements for excessive infiltration and inflow.

Excessive infiltration and inflow into the public sewer from damaged lateral connections, or illicit connections from roof drains shall be repaired, at the cost of the property owner, within thirty (30) days of written notice by the utilities director. If property owner fails to repair lateral within thirty (30) days, the city may repair the lateral and charge the property owner for all costs including materials and labor. (Ord. 876 § 4.90, 1997)

13.12.380

13.12.380

Protection from damage.

No unauthorized person shall maliciously, wilfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Ord. 876 § 4.100, 1997)

Article 5. Industrial Pretreatment Program

13.12.390

Declaration of policy.

A. The city has developed the industrial pretreatment program for the purpose of setting requirements for the industrial discharge of pollutants into the city sewerage system. The objectives of this program are to:

1. Prevent the introduction of pollutants into the city sewerage system which will interfere with the operation of the system, including interference with the city's use or disposal of the resulting sludge;
2. Prevent the introduction of pollutants into the city sewerage system which will pass through the system, inadequately treated, into receiving waters;
3. Improve the opportunity to reclaim and recycle the wastewater and sludge from the city sewerage system; and
4. Protect the health of city employees working in and around the city sewerage system.

B. In achieving the objectives set forth in subsection A of this section, it shall be the policy of the city to actively support the community's commerce and industry through accommodation, assistance and cooperation consistent with the city's responsibility to protect the waters of the state from pollution and to secure the health, safety and welfare of the residents of the city and surrounding areas.

C. Pollutants shall be accepted into the city sewerage system subject to regulations and requirements as may be promulgated by state and federal regulatory agencies or the city for the protection of wastewater facilities and treatment processes, public health and safety, receiving water quality and avoidance of nui-

sance. Pretreatment standards shall be developed to ensure that at minimum, the city and nonresidential users comply with Sections 307(b) and 307(c) of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 and the regulations promulgated pursuant to these sections of the Act, including but not limited to, 40 CFR Part 403 (General Pretreatment Standards), 40 CFR Chapter I Subchapter N (National Categorical Pretreatment Standards) and state regulations (OAR 343-45-063).

D. Wastewater discharge permit conditions shall be based on federal, state and local regulations and requirements and on the results of analysis of the type, concentration, quantity and frequency of discharge including the geographical relationship of the point of discharge to wastewater and treatment facilities. Wastewater discharge permits may include, but are not limited to, conditions pertaining to discharge standards, self-monitoring requirements, treatment methods, housekeeping practices, inventory storage, manufacturing methods, etc., that are intended to protect the waters of the state. Permit conditions shall be reevaluated upon expiration of the permit and may be revised by the city as required, to remain consistent with local, state or federal laws, regulations and requirements or to meet any emergency. (Ord. 876 § 5.10, 1997)

13.12.400

Application and permit to discharge.

A. General. Each nonresidential user discharging, desiring to discharge, or having the potential to discharge nondomestic waste into the city sewerage system shall secure a wastewater discharge permit from the city. Any discharge of nondomestic wastes without a permit is a violation of this chapter except as provided in subdivision (1) of this subsection.

1. Existing Connections. Any person who discharges or has discharged nondomestic wastes into the city sewerage system prior to the effective date of the ordinance codified in this chapter shall, at the request of the city and within ninety (90) days after the date, apply to the city for a wastewater discharge permit and shall not cause or permit to be caused the continued discharge of nondomestic wastewater after one hundred eighty (180) days from and after the effective date of said ordinance without the permit unless so exempted therefrom.

2. New Connections. No person intending to discharge nondomestic waste shall make a connection to the city sewerage system without first applying to the city and receiving from the city a wastewater discharge permit or written notice of exemption therefrom. This permit shall be in addition to all other required permits.

B. Application. Each nonresidential user discharging, desiring to discharge, or having the potential to discharge nondomestic waste into the city sewerage system shall prepare and submit in writing an application for wastewater discharge permit to the city manager on a form provided by the city and shall include the following information:

1. Name, address, telephone number and authorized representative of the applicant and service address together with the name of the operator and owners;
2. SIC number, and pretreatment standards applicable to each regulated process;
3. A list of environmental permits held by or for the applicant;

4. A list of wastewater pollutants and their characteristics actually or potentially discharged at the applicable plant site including measured or estimated daily average and daily maximum concentrations of these pollutants; Provide chemical analysis from state certified laboratory;

5. Water use; measured wastewater for maximum daily flow, average daily flow, including average monthly and seasonal variations if any, to the POTW for all regulated process streams, and other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e);

6. A description of spill prevention measures or plans which are currently in place in the plant;

7. A detailed site, floor or plumbing plan showing the size and location of all sewers, sewer connections and appurtenances, or any other facilities designed to help the applicant in meeting the requirements of this chapter;

8. A description of activities, facilities and plant processes on the premises including a general description of types and quantities of all materials which are or could be discharged into the city sewerage system;

9. A list of chemicals on material safety data sheets (MSDS);

10. A list of each chemical used, product produced by type, amount, process or processes, and rate of production; proprietary process information may be submitted and marked as "confidential" for protection from competitors;

11. Any pertinent special agreements between the applicant and the city concerning treatment of discharges, special user charges or rates, or any other information deemed necessary by the city manager; and

12. A signature of an authorized representative of the applicant and the following statement as required by 40 CFR 403.12(1):

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.

C. Evaluation of Application. The city manager will evaluate the data furnished by the applicant and may require additional information or sampling of wastewater characteristics. If such a determination is made, the applicant, unless the time period is extended, will be given thirty (30) days to provide the required information or sampling. If it is not provided within the designated time period, the application shall be denied. If the proposed discharge meets requirements of this chapter, the city manager will, within thirty (30) days after determining that the application is complete, issue a wastewater discharge permit subject to appropriate terms and conditions.

D. Modification of Permit. Discharge conditions included in a wastewater discharge permit shall remain in effect for that permit until it expires, except that they may be revised by the city

manager whenever the city manager deems a revision is necessary in order to effectively implement the program, as required by the city. The permit holder shall be informed of any proposed change in its permit at least thirty (30) days prior to the effective date of change, except in the event of an emergency.

E. Duration. Permits shall be issued for a specified time period, not to exceed three years. The permit holder shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of its existing permit if it desires to continue the discharge.

F. Conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter. Permits may contain the following conditions:

1. Payment of applicable fees and charges;
2. Limits on the average and maximum discharge of restricted substances, including mass limits;
3. Limits on the average and maximum rate and time of discharge or requirements for flow regulation and equalization;
4. Requirements for the installation and maintenance of pretreatment, inspection or monitoring and sampling facilities;
5. Specifications for monitoring and sampling programs which may include monitoring and sampling locations, frequency of monitoring and sampling, number, types and standards for tests and reporting schedules;
6. Compliance schedules;
7. Requirements for submission of technical reports or discharge reports;
8. Requirements for maintaining and retaining plant records relating to wastewater discharges, and the use and maintenance of monitoring equipment, as specified by the city manager, and affording the city manager access thereto;
9. Requirements for notification of the city of any new introduction of restricted substances or any substantial change in the volume or character of the wastewater greater than twenty (20) percent of that defined by the wastewater discharge permit, or any restricted substances being discharged into the POTW;
10. Requirements for notification of the city within two business days after a permit holder has a reasonable basis to know that the production level will significantly change within the next calendar month, and that without such notification, a permit holder must meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate;
11. Requirements for immediate notification of the city of slug load discharges;
12. Authorized points of discharge and regulated processes;
13. Requirement for immediate notification of the city manager where self-monitoring results indicate noncompliance;
14. Requirement to report a bypass or upset of a pretreatment facility within twenty-four (24) hours of the event;
15. Other conditions as deemed appropriate by the city manager to achieve compliance with this chapter.

13.12.410

G. Transfer. A wastewater discharge permit shall be issued to a specific nonresidential user for a specific operation. A wastewater discharge permit shall not be assigned, transferred or sold without the approval of the city manager. Any succeeding nonresidential user shall agree to comply with the terms and conditions of the existing permit as a condition precedent to the approval by the city manager of a transfer, sale or assignment of the permit.

H. Compliance. The permit holder at all times shall maintain in good working order and operate as effectively as possible all facilities or systems of control installed to achieve compliance with the terms and conditions of the wastewater discharge permit. Any permit holder who violates any conditions of the permit, this chapter, or any applicable federal, state or local regulation is subject to revocation of the permit and other legal action including civil and criminal penalties as provided for in Article 9 of this chapter. (Ord. 876 § 5.20, 1997)

13.12.410

Pretreatment facilities.

A. As a condition of the granting of a wastewater discharge permit, the permit holder may be required to install pretreatment facilities or make plant or process modifications as deemed necessary by the city manager to meet the requirements of this chapter. Whenever such facilities or modifications are required, they shall be constructed, installed, operated and maintained at the expense of the permit holder and in a manner and within the time prescribed by the city manager. The permit holder shall maintain records indicating routine check dates, cleaning and waste removal dates and means of disposal of accumulated wastes. Such records shall be retained for a minimum of three years and shall be subject to review in accordance with Section 13.12.440. Approval of proposed facilities or modifications by the city manager will not in any way guarantee that these facilities or modifications will function in the required manner or attain the required results, nor shall it relieve the permit holder of the responsibility of enlarging or otherwise modifying or replacing such facilities to accomplish the intended purpose and to meet the applicable standards, limitations and conditions of a wastewater discharge permit.

B. The permit holder shall be required to pretreatment any wastestreams discharged to the POTW that exceed daily mass loadings of 1.5 pounds BOD5 or 1.5 pounds TSS. The permit holder may be subject to surcharges, in addition to operation of a pretreatment facility, as defined in Sections 13.12.350 and 13.12.690.

C. Recreational vehicle parks shall be required to pretreat wastestreams prior to discharge to the POTW. The level of pretreatment shall be approved by the city manager. (Ord. 876 § 5.30, 1997)

13.12.420

Monitoring facilities.

When required by the utilities director, the permit holder shall install and maintain at its expense a suitable control manhole to facilitate observation, sampling and measurement of wastewater being discharged into the city sewerage system. Such manhole shall be located, if

feasible, where it is accessible from a public road or street. It shall be constructed in accordance with the plans and at a location approved by the utilities director and shall be arranged so that flow measuring and sampling equipment and a shutoff gate or a screen may be conveniently installed by the city. The manhole shall be constructed and maintained by the permit holder so as to be safe and accessible at all times. (Ord. 876 § 5.40, 1997)

13.12.430**Monitoring and reporting requirements.**

A. Each industrial user shall complete monitoring and submit monitoring reports to the city as required by this chapter, and the wastewater discharge permit. As required by 40 CFR 403.12(e) and (h), all significant industrial users shall report a minimum of two times per year unless required more frequently by the city. All periodic monitoring reports must be signed by the authorized signatory and must contain the certification statement provided in Section 13.12.400(B)(1) as required by 40 CFR 403.12(1). If during any reporting period, an industrial user fails to comply with permit requirements and limitations, the industrial user shall include in the report an explanation of the noncompliance, any known or suspected causes, and actions taken or to be taken to prevent further occurrences.

B. If an industrial user monitors any pollutant more frequently than required by the city, using approved procedures, the results of this monitoring shall be included in the report.

C. All such analytical tests and laboratory reports shall be at the cost of the permit holder. The city shall have the right to implement and enforce the requirements of 40 CFR 403.12 and 403.6(c)(7) by order of the city manager. When deemed necessary by the city manager, a permit holder may be required to obtain, install, operate and maintain an automatic sampler, analyzer or flow measuring device to monitor its discharges in the manner directed by the city.

D. All sampling and analysis shall be done in a manner and by a laboratory previously approved by the city manager. The city manager shall require all analysis related to any permit to be performed in accordance with the procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR Section 136 or other applicable analytical procedures approved by the EPA.

E. To the degree practicable, the city manager will provide each permit holder or applicant with information on applicable local, state and federal wastewater analysis and reporting requirements, provided, however, that any failure to do so shall not excuse the permit holder from compliance with such requirements. (Ord. 876 § 5.50, 1997)

13.12.440

Recordkeeping.

A. Any industrial user subject to the reporting requirements required by this chapter or a wastewater discharge permit shall be required to retain for a minimum of three years from the date of the sample, measurement, report or application any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the POTW. Records include all calibration and maintenance records, copies of all reports required by this chapter or a wastewater discharge permit, and records of all data used to complete the application for the permit. This period may be extended by request of the city at any time.

B. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user of POTW or when requested by the city manager.

C. The following information, at a minimum, is required for all samples:

1. The date, exact place, method and time of sampling and the names of the person or persons taking the samples;
2. The dates analyses were performed;
3. Who performed the analyses;
4. The analytical techniques/methods used; and
5. The results of such analyses.

D. The reports and other documents required to be submitted or maintained under this chapter, the program or a permit shall be subject to the provisions of 18 U.S.C. Section 1001 relating to fraud and false statements; the provisions of Sections 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and the provisions of Section 309(c)(6)

regarding responsible corporate officers which provide for civil and/or criminal penalties for making any false statement, record, report, plan or other document. (Ord. 876 § 5.60, 1997)

13.12.450

13.12.450

Inspection.

A. All users shall allow any authorized representative of the city bearing proper identification to enter upon the premises of any facility without delay where a real or potential discharge is located or records are required to be kept under the terms and conditions of this chapter or a permit, at reasonable times to have access to and copy records required to be kept under the terms and conditions of this chapter or a permit, to inspect any facility or monitoring equipment, to observe monitoring or testing practices or facility treatment or operations, and/or for measuring, sampling, or testing of any discharge of wastewater to the POTW in order to determine compliance with the requirements of this chapter, a permit, and/or any federal, state or local regulations. The city shall have the right to inspect the facilities in accordance with Article 8 of this chapter.

B. Except as otherwise provided in 40 CFR 2.302, any records, reports, or other information obtained pursuant to this chapter or a permit, including any correspondence relating thereto, shall be available to the public; however, upon a showing satisfactory to the city by any person that the making public of any report or information, or a part thereof, other than effluent data, would divulge methods or processes entitled to protection as trade secrets, the city shall consider such record, report or information, or part thereof, to be confidential, and access thereto shall be limited to authorized officers or employees of federal or state agencies or the city.

C. Information provided by users or the city pursuant to this chapter that has not been classified as confidential under Section 13.12.500, are open for public inspection. Requests for such review are to be made in writing and an appointment for review may be required. (Ord. 876 § 5.70, 1997)

13.12.460

Notification.

A. Nonresidential user shall promptly notify the city manager in advance of any substantial change in the volume or character of pollutants in its discharge, including hazardous wastes as provided under Section 13.12.470. All users shall notify the city as soon as possible but at least thirty (30) days prior to any planned changes in the permitted facility or activity.

B. Any nonresidential user or employee becoming aware of a discharge to the city sewerage system in violation of this chapter shall report such discharge immediately by telephone to the city manager, followed by written notice. Prompt notification of such discharges will allow the city to take necessary precautions to minimize hazards and to prevent damage to the receiving waters, thereby avoiding or minimizing discharge violations and fines from state and federal regulatory agencies and the city. The notification shall include the location of the discharge, date and time thereof, type of waste, concentration and volume of pollutant, and corrective actions proposed and/or taken.

C. Within twenty-four (24) hours of the telephone notification to report the discharge violation, the user shall repeat sampling and analysis. Laboratory results of the repeat analysis shall be

submitted to the city within fifteen (15) days of the violation by written notice, except when the nonresidential user is not required to repeat samples as determined by the city manager, by written notification, that it is unnecessary.

D. Within five days following such a violation of discharge limitations or conditions, the nonresidential user shall submit to the city manager a detailed written report describing the cause and location of the discharge, the type, concentration and volume of the pollutant discharged, and any hazards which may be posed to life or property and the measures taken or to be taken to prevent similar future occurrences.

E. Each nonresidential user subject to Section 13.12.390 shall permanently post a notice on its bulletin board or other prominent place advising employees whom to call in the event of a discharge in violation of this chapter. Employers shall ensure that all employees who may cause or suffer such a discharge to occur or who are likely to detect such discharge are advised of the emergency notification procedure. (Ord. 876 § 5.80, 1997)

13.12.470

Notice of hazardous waste discharge.

A. Federal Notice Requirements. Nonresidential users shall notify the city manager, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the city wastewater system of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include, at a minimum:

1. The name of the hazardous waste as set forth in 40 CFR Part 261;
2. The EPA hazardous waste number;
3. The type of discharge (batch, continuous, or other);
4. The following information to the extent such information is known and readily available to the nonresidential user:
 - a. Identification of the hazardous constituents contained in the wastes, and
 - b. An estimation of the mass and concentration of such constituents in the wastestream discharged.

B. This chapter in no way provides for or allows the discharge of hazardous wastes as identified in 40 CFR Part 261 or regulations under Section 3001 of the Resource Conservation and Recovery Act. (Ord. 876 § 5.90, 1997)

13.12.480

Accidental discharges.

Each nonresidential user shall provide protection against discharge of prohibited materials or other wastes regulated by this chapter. Nonresidential users shall provide and maintain at their expense facilities to prevent accidental discharge, including, but not limited to: retention basins, dikes, berms, storage tanks or other devices. All significant nonresidential users and other nonresidential users as required by the city shall submit an accidental spill prevention plan

13.12.490

(ASPP), showing facilities and operating procedures to provide this protection, within sixty (60) days of notification by the city, for review and approval before implementation. Each nonresidential user shall implement its ASPP as submitted after such ASPP has been reviewed and approved by the city. Approval of such ASPP shall not relieve the nonresidential user from the responsibility to modify its facility as necessary to meet the requirements of this chapter. At a minimum, the ASPP shall include, but not be limited to, the following elements:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the city of slug discharges, including any discharge that would violate a prohibition under this chapter, with procedures for follow-up 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 runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, and/or measures and equipment for emergency responses; and
- E. Other information as required by the city. (Ord. 876 § 5.100, 1997)

13.12.490

Dilution.

No nonresidential user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with the standards contained in this chapter. (Ord. 876 § 5.110, 1997)

13.12.500

Confidential information.

Information and data obtained by the city from reports, questionnaires, permit applications, permits and monitoring programs shall be available to the public and other governmental agencies without restriction unless the permit holder requests in writing that it be confidential and demonstrates to the satisfaction of the city manager that release of such records would divulge information, processes or production methods entitled to protection as trade secrets under federal laws, or ORS 192.500(1)(b), (e) or (2)(g), or proprietary information of the discharger, or would threaten national security. Notwithstanding anything herein to the contrary, all such data shall be available at least to the extent necessary that the city manager can ensure compliance with the requirements of this chapter as well as the requirements of 40 CFR 2.302 and to state and federal agencies as required during judicial or enforcement proceedings involving the nonresidential user. When confidentiality is requested and the right thereto is established by the permit holder, the confidential information shall not be made available for inspection by the public but may be made available upon written request to governmental agencies for uses related to this chapter, the NPDES permit or pretreatment programs. However, all portions of a report shall be available for

use by the city or state in judicial or enforcement proceedings involving the person furnishing the report. (Ord. 876 § 5.120, 1997)

13.12.510

Administration fees.

A. Purpose and Policy. It is the purpose of this section to reduce the city's cost of implementation of the program through establishment of an equitable system of charges or fees for activities covered by the industrial pretreatment program, and chargeable to nonresidential users who are subject to Section 13.12.390.

B. Fee Items. The city manager may adopt a system of fees to reduce the city's cost of the following services:

1. Setting up and operating the program;
2. Sampling, monitoring, inspection and surveillance procedures;
3. Reviewing accidental discharge procedures and construction;
4. Reviewing and acting upon permit applications, modifications or renewals;
5. Other services as the city manager may deem necessary to carry out the requirements contained herein. (Ord. 876 § 5.130, 1997)

13.12.520

Recovery of costs.

For each and every occurrence of any impact to the environment, the city sewerage system or other appurtenances, or the receiving waters caused by a discharge, and notwithstanding any fines, penalties and/or surcharges that may be applicable to the discharge, the city may recover the direct and indirect costs associated with the clean up, repair, recovery or any other activity required directly or indirectly due to the impact of the discharge. The costs shall include, but not be limited to:

A. The actual direct and indirect costs of any labor, materials, equipment and/or other supplies used by the city and/or its representatives for any services, monitoring, testing, repairing, cleaning, pumping, recording, containing or other activity engaged to assist the city in recovering from the discharge and returning the affected facility(ies) to the conditions required by permit;

B. The actual direct and indirect costs of any services related to the discharge provided to the city by any public agency;

C. The actual amount of any and all legal fees incurred by the city in defending against and/or collecting any and all fines, penalties, administrative fees, judgments and/or settlements against the nonresidential user or its representatives resulting directly or indirectly from the discharge; or

D. The actual amount of any fines, penalties, administrative fees, judgments and/or settlements against the city or its representatives resulting directly or indirectly from the discharge whether imposed, adjudicated, negotiated or required by any legal means.

The costs shall be calculated by the city from the records, reports, documents and/or invoices submitted by the contractors, vendors, suppliers, agencies and/or claimants and verified by legal

13.12.530

counsel to the city. The nonresidential user shall be invoiced for these costs as they are developed and submitted and payment is due net thirty (30) days, with the city receiving interest at the rate provided in the fee schedule on the unpaid balance. (Ord. 876 § 5.140, 1997)

Article 6. Powers and Authority of Inspectors

13.12.530

Power and authority to inspect.

The city shall be permitted to enter all properties serviced by the city sewerage system as necessary to determine compliance with this chapter, all permit requirements, and any other federal, state or local requirements which may be in force at the time of inspection. These inspections shall take place whether or nor the provisions of this chapter are being complied with. The owner, operator or agent in charge of the premises where wastewater is created or discharged shall allow authorized representatives of the city, state and EPA, upon presentation of their identification, unimpeded access at all reasonable times to all parts of the premises for the purpose of the performance of any of their duties, including but not limited to: inspection, observation, sampling and/or records copying and examination. The city, state and EPA shall have the right to set up on the property such devices as may be necessary or proper to conduct sampling, observation, inspection, compliance monitoring and/or metering operations. If the discharger, or owner or other occupant of the premises refuses to allow entry, and the city manager determines that access is necessary to fulfill the city's duties, obligations and/or legal requirements in enforcing this chapter or other applicable laws, rules, regulations or other requirements of federal, state or local authorities having jurisdiction, the city may apply to the court having jurisdiction for an inspection warrant in accordance with Oregon Revised Statutes. The denial of such access is in and of itself a violation of this chapter. (Ord. 876 § 6.10, 1997)

13.12.540

Safety and liability.

While performing the necessary work on private properties referred to in Section 13.12.530, the building inspector or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 13.12.420. (Ord. 876 § 6.20, 1997)

13.12.550**Authority to enter easements.**

The building inspector and other duly authorized employees of the city bearing proper identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. 876 § 6.30, 1997)

Article 7. Enforcement Procedures**13.12.560****Public nuisance.**

Any discharge, or activities which could result in or cause discharges, in violation of this chapter, the conditions of the wastewater discharge permit, or any other violation of this chapter, is declared to be a public nuisance. Such nuisance may be abated or enjoined and damages assessed therefor in accordance with other provisions in the city code or in any other manner provided by law. (Ord. 876 § 7.10, 1997)

13.12.570**Cease and desist order.**

In the event of any actual or threatened discharge into the city sewerage system in violation of this chapter or the conditions of the wastewater discharge permit, which discharge presents an imminent or existing danger to the health or welfare of persons, property or the environment or which has caused or will cause damage to or interference with the operation of the city sewerage system as authorized by 40 CFR 403.8(f)(1)(vi), the city manager may issue an order to cease and desist and direct that those nonresidential users responsible for the violation:

- A. Comply forthwith;
- B. Comply with the time schedule set forth by the city manager; and
- C. Take appropriate remedial or preventive action. (Ord. 876 § 7.20, 1997)

13.12.580**Failure to comply.**

A. If the nonresidential user in noncompliance fails to comply with the order, the city shall take such steps as are deemed necessary or proper, including immediate severance of the sewer connection and water service. The city shall reinstate the water and sewer utility service upon proof of the elimination of the actual or threatened violation. The filing of an appeal pursuant to Article 8 of this chapter shall not stay enforcement of the city manager.

13.12.590

B. Failure to comply by users include, but are not limited to the following violations:

1. Missed interim or final compliance schedule date;
2. Failure to report or notify completely or accurately;
3. Late to report or notify;
4. Failure to report;
5. Failure to install manholes or monitoring equipment;
6. Failure to sample, monitor, or analyze as required;
7. Failure to develop an accidental spill prevention plan;
8. Refusal of reasonable or timely access to premises for inspection or monitoring;
9. Slug discharge, whether harmful or not;
10. Reporting false information;
11. Exceeding discharge limitation or prohibition;
12. Falsifying, tampering with or rendering inaccurate any required monitoring device or method. (Ord. 876 § 7.30, 1997)

13.12.590

Submission of time schedule.

If the city manager finds that a discharge has taken or may take place in violation of this chapter or the conditions of the wastewater discharge permit, the city manager may require the person or permit holder responsible therefor to submit for approval, within such time and with such modifications as the city manager deems necessary, a detailed time schedule of specific actions which the person or permit holder shall take in order to prevent or correct the violation. (Ord. 876 § 7.40, 1997)

13.12.600

Revoking a permit and terminating service.

A. Any nonresidential user who violates any of the provisions of this chapter or the conditions of its wastewater discharge permit, which violation presents an imminent danger to the health or welfare of persons, property or the environment, or which violation will cause damage to, or interference with, the POTW, or contamination of the resulting sludge, may have their wastewater discharge permit revoked and/or water and sewer connection severed by order of the city manager.

B. The order shall be signed by the city manager and shall specify the nature and source of the violations. The order shall be delivered or sent by regular mail to the address of the nonresidential user as shown on the permit. The order may specify the corrective actions to be taken and shall state a reasonable time for satisfactory correction. If the nonresidential user does not correct the violation within the time specified, or such additional time as may be allowed in writing by the city manager, then the wastewater discharge permit shall be revoked and the water and sewer connection severed as provided in the order. Correction of the violation shall not preclude assessment of monetary penalties.

C. The filing of an appeal pursuant to Article 8 of this chapter shall stay enforcement of the action by the city manager under this section pending final administrative action on the appeal. This provision supplements and does not restrict other provisions of this chapter, laws or regulations authorizing termination of service for delinquency in payment of fees or charges. (Ord. 876 § 7.50, 1997)

13.12.610

Public notification of violations.

The city shall publish in a daily newspaper with the largest daily circulation in the area, not less than annually, a list of those nonresidential users which during the previous twelve (12) months were determined to be in significant noncompliance of this chapter or the conditions of their discharge permits. This notification will summarize enforcement action taken by the city during the same twelve (12) months. For the purposes of this provision, a user is in significant noncompliance if its violation meets one or more of the following criteria:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all of the measurements taken during a six-month period exceed, by any magnitude, the daily maximum limit or the average limit for the same pollutant parameter;

B. Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit of the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD5, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the city determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city sewerage system personnel or the general public);

D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the city manager's exercise of its emergency authority under Section 13.12.400 to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone for starting construction, completing construction, or attaining final compliance;

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

G. Failure to accurately report noncompliance; and

H. Any other violation or group of violations which the city manager determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. 876 § 7.60, 1997)

13.12.620

Violations.

Any person found to be violating any provision of this chapter shall be served by the city with written notice stating the nature of the violation and, providing a reasonable time limit for the satisfactory period of time stated in such notice, ordered to permanently cease all violations. (Ord. 876 § 7.70, 1997)

13.12.630

Violators liable for damages.

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation. (Ord. 876 § 7.80, 1997)

13.12.640

Fine for violations.

Any person who shall violate or fail to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine in any sum not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the city jail for a term not exceeding six months or both such fine and imprisonment and each day that a violation of any of the terms and provisions continue shall be deemed a distinct and separate offense. (Ord. 876 § 7.90, 1997)

Article 8. Appeals

13.12.650

Reconsideration.

Any person aggrieved by any decision or action of the city manager made or taken pursuant to the rules and regulations of the city may file a written request with the city manager for reconsideration thereof within ten days of such decision or action. The request for reconsideration shall be on a form provided by the city manager and shall set forth in reasonable detail the decision or action objected to and the facts and arguments supporting the appellant's request for reconsideration. The city manager shall render a final written determination within ten days of receipt of such request for reconsideration. The city manager may establish such procedures as may be deemed necessary or proper to conduct the reconsideration process. The filing of a request for reconsideration shall be a condition precedent to the right to appeal to the city council pursuant to Section 13.12.660. (Ord. 876 § 8.10, 1997)

13.12.660**Appeals to the city council.**

Any person aggrieved by the final determination of the city manager may appeal such determination to the city council within ten days of the final determination. Written notification of such appeal shall be filed with the city and city manager within ten days after receipt of the final determination of the city manager. The notice of appeal shall be on a form provided by the city manager and shall set forth in reasonable detail the decision or action being appealed and the facts and arguments supporting the applicant's request for reversal or modification of the city manager's determination. (Ord. 876 § 8.20, 1997)

13.12.670

13.12.670

City council hearing.

The city council shall conduct a hearing on the appeal and shall render a decision thereon within twenty (20) days of its filing. Prior to the hearing, the city manager shall provide the city council with his findings and recommendations regarding the appeal. Within ten days after the hearing, the city manager shall notify the appellant of the council's decision. (Ord. 876 § 8.30, 1997)

Article 9. Charges and Rates

13.12.680

Charges imposed.

A fee schedule setting forth connection fees and monthly service charges for use of the city's public sewer system shall be adopted by resolution. (Ord. 983 § 2 (part), 2007; Ord. 876 § 9.10, 1997)

13.12.690

Surcharge for excessive discharge loads.

In addition to the applicable monthly service charge referred to in Section 13.12.680, the city shall impose a monthly surcharge on all users that discharge more than 0.183 lbs/day of BOD5 or TSS to the POTW as defined in Section 13.12.310. A user's daily discharge of BOD5 or TSS shall be the average of daily samples taken during one calendar month. A surcharge schedule shall be adopted by resolution and shall differentiate between excessive dischargers as follows:

| BOD5/TSS Mass Loadings |
|-------------------------------|
| 0.184—0.368 lbs/day |
| 0.368—0.552 lbs/day |
| 0.552—0.736 lbs/day |
| 0.736—0.920 lbs/day |
| 0.920—1.104 lbs/day |
| 1.104—1.288 lbs/day |
| 1.288—1.472 lbs/day |
| 1.472—1.656 lbs/day |
| 1.656—1.840 lbs/day |

(Ord. 983 § 2 (part), 2007; Ord. 876 § 9.20, 1997)

(Ord. 983 § 2 (part), 2007; Ord. 876 § 9.20, 1997)

13.12.700

Users outside of city limits.

All users located outside the corporate limits of the city but within the urban growth boundary shall be charged a sewer user rate of double the amount charged users within the corporate limits of the city, except for sanitary service districts. (Ord. 876 § 9.30, 1997)

13.12.710

13.12.710

Monthly service charges.

Sewer service charges shall be collected monthly, and if not paid prior to the fifteenth day after billing they shall be deemed delinquent. The water department may enforce the collection of sewer service charges by withholding delivery of water to any premises for which the sewer service charges are delinquent, and may use such other means of collection as may be provided by the laws of the state of Oregon or permitted by the charter or ordinances of the city. Delinquent sewer service charges may be certified to the tax assessor of Douglas County for collection in the manner provided by ORS 224.220, and may be recovered in an action at law by the city. (Ord. 934 § 1, 2001; Ord. 876 § 9.40, 1997)

13.12.720

Nonpayment charges.

In the event it becomes necessary to certify the service charges established because of the nonpayment thereof, there shall be added to such charges a penalty in the amount of ten percent thereof, and the same shall bear, when certified, interest at the rate of eight percent per annum from the date of such certificate. If court action is brought to collect the delinquent service charges, the same penalties and interest charges above set out shall apply. (Ord. 876 § 9.50, 1997)

13.12.730

Review and revision of rates.

The sewer user charges established in Section 13.12.700 shall as a minimum be reviewed annually and revised periodically to reflect actual costs of operation, maintenance replacement and financing of the treatment work, and to maintain the equability of the user charges with respect to proportional distribution of the cost of operation and maintenance in proportion to each user's contribution to the total wastewater loading of the treatment works. (Ord. 876 § 9.60, 1997)

13.12.740

Building sewer permit fees.

A permit and inspection fee shall be imposed for a residential or commercial building sewer permit, and for an industrial building sewer permit. The fee shall be paid to the city at the time the application is filed. The amount of the fee shall be determined by city resolution. (Ord. 876 § 9.70, 1997)

13.12.750**System development charge.***

A. Residential Connections. Prior to connection to the city sewerage system, the owner of residential property which is located within the corporate limits of the city that is to be serviced by the system shall pay to the city a connection fee. If the property to be serviced by the city sewerage system is located within the urban growth boundary but outside the corporate limits of the city, a separate connection fee shall be paid after city council approval. The connection fee amount shall be determined by city resolution.

B. Commercial/Industrial Connections. Prior to connection to the city sewer service, the owner of commercial or industrial property shall pay to the city a connection fee, plus costs incurred by the city for connection into the city's sanitary sewer, plus a fee for the number of equivalent dwelling units (EDUs) over 1.0. All "for-profit" businesses, including motels, apartment buildings, RV parks, mobilehome parks, and other residential operations of similar nature, are deemed to be commercial ventures when ownership is held by a corporation, partnership or individual for the purpose of rental income. The connection fees and fee per EDU shall be determined by city resolution. (Ord. 876 § 9.80, 1997)

*Editor's Note: For additional provisions concerning system development charges, see Ch. 13.16.

13.12.760**Additional connection fees.**

If the city sewer line does not already contain a "wye" in the sewer line so that it will necessitate breaking into the sewer line to make the proper and appropriate connection, an additional fee will be charged as a break-in fee. In addition to the fees, when the city installs a sewer lateral from the sewer line to the property line, the property owner will pay to the city. The payment will be made when the property owner requests the city to install the service. Fees shall be determined by resolution. (Ord. 876 § 9.90, 1997)

13.12.770**Adjustment of bills.**

When a utility account that includes a sewer service billed according to water consumption is eligible for a bill adjustment for its water service in accordance with 13.04.080(5) of the SMC, the sewer bill shall be adjusted with a credit determined by calculating the number of gallons to be credited in accordance with SMC 13.04.080(5)(b) multiplied by the current sewer rate in effect for the utility account. (Ord. 1010 § 1 (part), 2010)

13.12.780

13.12.780

Installment payment plan.

For utility accounts that include a sewer service billed according to water consumption and where it is established that a water leak has occurred, the city manager or designee may enter into an installment payment plan with the customer for payment of that bill. Prior to executing an installment payment plan, the customer must provide proof that the subject leak has been repaired. (Ord. 1010 § 1 (part), 2010)

Chapter 13.16

SYSTEMS DEVELOPMENT CHARGES FOR NEW DEVELOPMENTS

Sections:

- 13.16.010 Purpose.**
- 13.16.020 Scope.**
- 13.16.030 Definitions.**
- 13.16.040 Systems development charges established.**
- 13.16.050 Methodology.**
- 13.16.051 Transportation system development charge methodology.**
- 13.16.060 Expenditure restrictions.**
- 13.16.070 Improvement plan.**
- 13.16.080 Collection of charges.**
- 13.16.090 Enforcement.**
- 13.16.100 Installment payment.**
- 13.16.110 Exemptions.**
- 13.16.120 Credits.**
- 13.16.130 Segregation and use of revenue.**
- 13.16.140 Appeal procedure.**
- 13.16.150 Prohibited connection.**
- 13.16.160 Violation—Penalty.**
- 13.16.170 Retroactive applicability.**

13.16.010

Purpose.

The purpose of the systems development charges is to impose a portion of the costs of capital improvements for water and waste water facilities, street improvements and parks and recreation upon those developments that create the need for or increase the demands on capital improvements. (Ord. 968 § 1 (part), 2006: Ord. 838 § 1, 1995: Ord. 797 § 2, 1992)

13.16.020

Scope.

The systems development charges imposed by this chapter are separate from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law or imposed as a condition of development. (Ord. 968 § 1 (part), 2006: Ord. 797 § 3, 1992)

13.16.030

Definitions.

For purposes of this chapter:

13.16.030

“Capital improvements” means facilities or assets used for:

1. Water supply, treatment or distribution;
2. Wastewater or sewer collection, transmission, treatment or disposal;
3. Roads, streets, pedestrian ways, bikeways and traffic signalization; and
4. Parks and recreation.

“Development” means conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, dividing land into two or more parcels (including partitions and subdivision), or creating or terminating a right of access.

“Improvement fee” means a fee for costs associated with capital improvements constructed after the date the fee is charged and as defined in ORS 223.297 through 223.314.

“Land area” means the area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.

“Owner” means the owner or owners of record title or the purchaser or purchasers under a recorded sales agreement, and other persons having an interest of record in the described real property.

13.16.040

“Parcel of land” means a lot, parcel, block or other tract of land.

“Qualified public improvement” means a capital improvement that is required as a condition of development approval, identified in a plan adopted pursuant to ORS 223.309 and either:

1. Not located on or contiguous to property that is the subject of development approval; or
2. Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with a greater capacity than is necessary for the particular development project to which the improvement fee is related.

“Reimbursement fee” means a fee for costs associated with capital improvements already constructed, or under construction on the effective date of the fees adopted pursuant to Section 13.16.040, for which the city determines that capacity exists.

“Systems development charge” means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. “Systems development charge” includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the city for its average new cost of inspecting and installing connections with water and sewer facilities. “Systems development charge” does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision, expedited land division, or limited land use decision.

“Wastewater” and “sewer” are synonymous. (Ord. 968 § 2, 2006; Ord. 866 § 1, 1996; Ord. 797 § 4, 1992)

13.16.040

Systems development charges established.

A. Systems development charges shall be established and may be revised by resolution of the council.

B. Unless otherwise exempted by the provisions of this chapter or other local or state law, effective as of July 1, 1991, systems development charges are imposed upon all new development within the city, and upon all parcels of land within the city or outside the boundary of the city, that connect to or otherwise use the sewer facilities, or water facilities of the city or that meet conditions that would require connection thereto under the city’s ordinances. (Ord. 797 § 5, 1992)

13.16.050

Methodology.

A. The methodology used to establish the reimbursement fee and the improvement fee shall consider, when applicable, the factors identified in ORS 223.304, and other relevant factors identified by the council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.

13.16.050

B. 1. The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.

2. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to Section 13.16.070.

C. Notwithstanding subsections A and B of this section, systems development charge revenues may be expended on the direct costs of complying with the provisions of this chapter, including the costs of developing systems development charge methodologies and providing an annual accounting of systems development charge expenditures.

D. No legal action intended to contest the methodologies used for calculating the systems development charges shall be filed after sixty (60) days following adoption or modification of this chapter or the resolutions of the council establishing the systems development charges. (Ord. 968 § 3, 2006; Ord. 797 § 6, 1992)

13.16.051

Transportation system development charge methodology.

A. Definition of Terms. As used in this section:

1. “Average weekday ITE trip rate” means the average number of daily weekday (Monday through Friday) one-way trips that have been observed at specified land uses and reported to the Institute of Transportation Engineers or the San Diego Association of Governments.

2. “Measurement unit” means the parameter that is used to measure the size of the development proposed. The number of measurement units multiplied by the average weekday ITE trip rate (per unit of measurement) results in the estimated number of weekday trips generated by the proposed development, prior to adjustments for linked (also known as a pass-by) trips (see definitions for these adjustments).

3. “Equivalent length new daily trips” means the number of estimated new daily trips that will be generated by projected new development anticipated by 2015, adjusted to account for different proportions of linked trips.

4. “Linked trip factor” means the factor used to adjust the average weekday ITE trip rate for trips with multiple purposes with respect to the type of development under consideration.

5. “Transportation demand management (TDM)” means a program of actions taken by public and/or private interests to reduce the volume of traffic (especially vehicles) during peak traffic periods. TDM includes such actions as transit system enhancements, increased ride sharing, constrained parking (low supply and/or high costs), flexible working hours/days, telecommuting, and similar actions. There are a number of projects that will be needed to provide sufficient transportation system capacity to accommodate future travel demand. These improvements include new streets, upgrades of existing streets to urban standards (i.e., added bicycle lanes, curbs/gutters, sidewalks, etc.), and new traffic signals. New streets and bridges, street upgrades, and new traffic signals provide more traffic lanes and urban street amenities resulting in a transportation system that can accommodate higher travel demand (additional capacity).

6. “Qualified public improvement” means as per Section 13.16.030 of this code.

B. The ordinance codified in this section is enacted for the purpose of revising the methodology used to determine the transportation systems development charges (SDC). To develop the city transportation systems development charge (SDC), the planned land uses in Sutherlin were

13.16.051

projected. From these planned land uses the number of daily and peak-hour trips generated on the public street system were estimated. Inherent in these trip estimates are the provisions for linked-trip characteristics by land use type. The equivalent length new daily trips (ELDNT) generated within the Sutherlin urban growth boundary by the year 2005 is illustrated in the resolution adopting the transportation improvements plan. Trip generation rates for each of the land use categories were adjusted using trip generation rates reported in Trip Generation, Fifth Edition (published by the Institute of Transportation Engineer (ITE), 1991).

13.16.051

C. The transportation systems development charge (SDC) is calculated by dividing the total cost of anticipated SDC-related transportation system improvements divided by the number of city-wide equivalent length new daily trips (ELNDT). The amount of the SDC and the related list of transportation system improvements shall be adopted or amended by resolution of the Sutherlin city council.

D. Credits against the calculated transportation SDC shall be given in accordance with Section 13.16.120, and shall be used for the cost of qualified public improvements, in whole or in part, as identified by the transportation systems development charge resolution. Transportation systems costs, which are not included in the resolution adopting the transportation systems development charges table and list of estimated transportation systems costs, shall not be eligible for SDC credit, except that the city may agree that certain costs may, in fact, represent “system” costs that will be considered for addition to SDC-eligible costs during the next SDC update. If those “noneligible” costs are subsequently changed to become SDC eligible, credit will be given in the form of reimbursement of a portion of the SDC improvement fees.

E. Credits may be given for developments that implement transportation demand management (TDM) plans designed to reduce generated trips. The proponent of the development must apply in writing for TDM trip reduction and transportation SDC credit as a part of the building permit application process. The TDM plan may be prepared by a transportation planning professional and must be approved by the city manager.

F. Credits for TDM shall be applied for on a form, which shall be prescribed by the city manager. Trip reductions will be limited to a maximum of fifteen (15) percent of the SDC charge calculated without TDM credits. TDM plans must include an annual reporting plan that will document the amount of trip reduction that is actually achieved. The amount of the maximum TDM improvement fee credit shall be placed in a separate account (TDM credit account) of the street construction fund and shall be held there for two years, until the actual amount of any TDM credits can be calculated, based on the development proponent’s annual reports. Following receipt of the second annual report on TDM trip reduction from the project proponent, the amount of the TDM credit shall be determined by the city manager.

G. Funds held in the special TDM credit account will be either reimbursed to the developer/applicant (in whole or in part) or transferred to the regular transportation SDC account in the street construction fund.

H. When a change of property use occurs (e.g., due to a change in land use, the number of dwelling units or building area) requiring a building permit, a transportation SDC will be required to be paid if the change results in a net change in trip generation as determined by the city manager. Specifically, the transportation SDC will be calculated based on the net difference between the trip generation (including equivalent length and new trip rate adjustments) of the new use less the trip generation of the existing use. If the new use generates fewer trips than the existing use no transportation SDC shall be paid, but no reimbursements will be given to the proposed development. Exemptions from the transportation systems development charge shall be in accordance with Section 13.16.110 of this code.

I. The transportation systems development charge is due and payable at the earlier time of either the issuance of a building permit or change in use of property. The building permit or change in use shall not be issued until payment is made or application for installments as indicated in subsection J of this section is made.

J. In accordance with ORS 223.210, when a systems development charge is due and payable, the applicant is entitled to apply for installment payments. Installment payments for transportation systems development charges shall be allowed in accordance with Section 13.16.100 of this code.

K. The transportation SDC receipts shall be placed in the city's street construction fund and shall be segregated by accounting practices from all other SDC funds received by the city. Funds collected that may qualify for TDM credits also shall be segregated from all other SDC funds received by the city. Funds collected through the transportation SDC program and any interest earned on these funds must be used only for projects specifically included in or amended to the transportation systems improvement plan as per resolution adopted by the city council. Transportation SDC funds can be used only for designated components of the project (pavement, curb/gutter, sidewalk, etc.) and only in the proportions shown in the transportation systems improvement plan resolution adopted by the city council.

L. The approval of any of the exceptions described in subsection H or credits described in subsections D, E and F of this section shall be at the discretion of the city manager. (Ord. 968 § 4, 2006; Ord. 896 §§ 1, 2, 1998)

13.16.060

Expenditure restrictions.

A. Systems development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

B. Systems development charges shall not be expended for costs of the operation or routine maintenance of capital improvements. (Ord. 797 § 7, 1992)

13.16.070

Improvement plan.

The council shall adopt a plan that:

- A. Lists the capital improvements that may be funded with improvement fee revenues;
- B. Lists the eliminated cost for construction of each improvement; and
- C. Describes the process for modifying the plan. (Ord. 797 § 8, 1992)

13.16.080

Collection of charges.

A. The systems development charges are payable upon issuance of:

1. A building permit;
2. A development permit for development not requiring the issuance of a building permit;
3. A permit to connect to the water or sewer system or in anticipation of the issuance of such a permit, at the time of levying a local improvement district assessment for sewer or water.

13.16.090

B. If development is commenced or connection is made to the water or sewer systems without an appropriate permit, the systems development charge is immediately payable upon the earliest date that a permit was required.

C. If no building, development, or connection permit is required, the systems development charges are payable at the time the usage of the capital improvement is increased.

D. The systems development charges are payable if conditions exist which would require connection to the sewer under the city's ordinances even if no connection is made.

E. If construction of the building or connection to the water or sewer system does not occur within 12 months of the date for which the systems development charge shall be paid under subsection (A) of this section, the owner shall be obligated to pay any increases in the systems development charge that may have occurred after the date of the original payment.

F. The city manager or his designated representative shall collect the applicable systems development charge from the permittee when a permit that allows building or development of a parcel is issued or when a connection to the water or sewer system of the city is made.

G. The city manager or his designated representative shall not issue such permit or allow such connection until the charges have been paid in full, until provision for installment payments has been made pursuant to Section 13.16.100, or unless an exemption is granted pursuant to Section 13.16.110.

H. Except as provided in this subsection, the obligation to pay the unpaid systems development charge(s) and interest thereon shall be secured by a lien against the property upon which development is to occur. Such liens shall arise upon issuance of the permit requiring the systems development charges or occurrence of other condition(s) requiring the systems development charges and shall be entered on the city's lien docket and the debt secured thereby may be collected in the manner provided in ORS chapter 223. In lieu of such lien, upon application of the permittee the obligation to pay the unpaid systems development charges and interest thereon may be secured by property, bond, deposits, letter of credit or other security acceptable to the city manager or his designee. (Ord. 1016 §§ 1, 2, 2011; Ord. 797 § 9, 1992)

13.16.090

Enforcement.

A. The city may use means of collection as may be provided by the laws of the state of Oregon or permitted by the Charter and ordinances of the city.

B. If a court suit or action is instituted to enjoin any development or construction for which a building permit was not issued or the systems development charge was not paid, or instituted for the collection of the fee, in addition to costs and disbursements provided by statute, the city shall be awarded such sums any court, including an appellate court, may adjudge reasonable as attorney fees in such suit or action. (Ord. 797 § 10, 1992)

13.16.100

Installment payment.

A. 1. When a systems development charge of five hundred dollars (\$500.00) or more is due and collectable, the owner of the parcel of land subject to the development charges may apply for payment in twenty (20) semi-annual installments, to include interest on the unpaid balance, which shall be at a rate set by the City Council but in any event not less than prime plus two percent, and an amount, determined by the City Council, sufficient to pay the City's costs of administering the installment payments in accordance with ORS Chapter 223.

2. The owner of a parcel of land that is subject to system development charges of five hundred dollars (\$500.00) or more because of a connection to the water facilities of the City pursuant to Section 13.04.030(D) of this Code may apply for payment in forty (40) semi-annual installments, to include interest on the unpaid balance, which shall be at a rate set by the City Council but in any event not less than prime plus two percent, and an amount, determined by the City Council, sufficient to pay the City's costs of administering the installment payments in accordance with ORS Chapter 223. Any application for installment payments under this subsection shall be approved or denied by the City Manager based on the best interests of the City. The City Manager may require an owner of a parcel of land to sign a letter consenting to eventual annexation into the City as a condition of approving an application under this subsection. The City Manager shall notify the Council within 30 days of any approval of a development charge installment application under this subsection.

B. The city manager shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

C. An applicant for installment payments shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the interest of the applicant is adequate to secure payment of the lien.

D. The city manager or his designated representative shall docket the lien in the lien docket. From that time the city shall have a lien upon the described parcel for the amount of the systems development charge, together with interest on the unpaid balance at the rate established by the council. The lien shall be enforceable in the manner provided in ORS chapter 223. (Ord. 1038 § 1, 2014; Ord. 797 § 11, 1992)

13.16.110

Exemptions.

The following are exempt from the systems development charges imposed in Section 13.16.040:

A. Structures and uses established and existing on or before July 1, 1991, are exempt from systems development charges, except water and sewer connection charges, to the extent of the structure or use then existing and to the extent of the parcel of land as it was constituted on that date. Structures and uses affected by this subsection shall pay the water and sewer connection charges pursuant to the terms of this chapter upon the receipt of a permit to connect to the water and/or sewer system.

B. Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State of Oregon Structural Specialty Code, are exempt from all portions of the systems development charge.

C. An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the public improvement facility.

D. A project financed by city revenues is exempt from all portions of the systems development charge.

E. A connection to the City's water or sewer system from property annexed to the City after November 1, 2014 is exempt from all water and sewer systems development charges if the property owner or the property owner's predecessor in interest: (1) signed a letter consenting to eventual annexation into the City within fourteen (14) days after having received a request from the City to do so; and (2) installed any necessary distribution system, service lines and connection lines in accordance with city standards prior to annexation.

13.16.120

F. A connection to the water facilities of the City made pursuant to section 13.04.030(D) of this code is exempt from the water systems development charge, provided that the application submitted by the property owner under section 13.04.030(D) clearly demonstrates: (1) that the request is not for the purposes of a planned-for subdivision; (2) that a financial hardship prevents the applicant from paying the development charges thereby causing jeopardy to the health and safety of the occupants of the premises; and (3) the applicant has signed a letter consenting to eventual annexation into the City. (Ord. 1038 § 2, 2014: administratively corrected 5/4/05; Ord. 797 § 12, 1992)

13.16.120

Credits.

A. A credit shall be given for the cost of a qualified public improvement. The credit shall be only for the improvement fee charged for the type of improvement being constructed, and credit for qualified public improvements may be granted for the cost of that portion of such improvement that exceeds the minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit.

B. When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project.

C. A developer may request of the city approval of the transferability of its credits, or for providing a credit for a capital improvement not identified in the plan adopted pursuant to ORS 223.309, or for providing a share of the cost of such improvement by other means. Said request shall be acted upon by resolution of the city council, and its decision shall be based upon its determination that approval of such request is in the best interests of the city. (Ord. 866 § 2, 1996; Ord. 797 § 13, 1992)

13.16.130

Segregation and use of revenue.

A. All funds derived from a particular type of systems development charge are to be segregated by accounting practices from all other funds of the city. That portion of the systems development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in Section 13.16.060.

B. The city manager shall provide the city council with an annual accounting, based on the city's fiscal year, for systems development charges showing the total amount of systems development charge revenues collected for each type of facility and the projects funded from each account. (Ord. 797 § 14, 1992)

13.16.140

Appeal procedure.

A. A person aggrieved by a decision required or permitted to be made by the city manager under this chapter or a person challenging the propriety of an expenditure of systems development charge revenues may appeal the decision or the expenditure to the city council by filing a written request with the city manager describing with particularity the decision of the city manager or the expenditure from which the person appeals and by payment of an appeal fee equal to ten percent of the system development charges for one EDU.

B. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure. Appeals of any other decision must be filed within ten days of the date of decision.

C. The council shall determine whether the city manager's decision or the expenditure is in accordance with this chapter and the provi-

sions of ORS 223.297 to 223.314 and may affirm, modify or overrule the decisions. If the council determines that there has been an improper expenditure of systems development charge revenues, the council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.

D. A legal action challenging the methodology adopted by the council pursuant to Section 13.16.050 shall not be filed later than sixty (60) days after the adoption or modification of the ordinance codified in this chapter or the resolution(s) of the council establishing the systems development charges pursuant to Section 13.16.040.

E. All decisions and determinations of the city council under this section shall be reviewed only as provided in ORS 34.010 to 34.100, and not otherwise. (Ord. 797 § 15, 1992)

13.16.150

Prohibited connection.

No person may connect to the water or sewer systems of the city unless the appropriate systems development charge has been paid or the lien or installment payment method has been applied for and approved. (Ord. 797 § 16, 1992)

13.16.160

Violation—Penalty.

Violation of any provision of this ordinance is punishable by a fine not to exceed two hundred fifty dollars (\$250.00) for each violation, and each day a violation continues shall constitute a separate violation punishable by a separate fine for each day. (Ord. 797 § 17, 1992)

13.16.170

Retroactive applicability.

The provisions of this chapter shall apply to all new development, all permits issued, all connections to capital improvements, and all connection charges collected from July 1, 1991 forward. (Ord. 797 § 20, 1992)

13.20.010

Chapter 13.20

CRITICAL DRAINAGE AREAS

Sections:

- 13.20.010 Purpose.**
- 13.20.020 Definitions.**
- 13.20.030 Area of critical drainage.**
- 13.20.040 Vegetation removal permit.**
- 13.20.050 Permit application.**
- 13.20.060 Permit conditions.**
- 13.20.070 Duties of the manager.**
- 13.20.080 Appeal from city manager's denial.**
- 13.20.090 Violations—Penalties.**

13.20.010

Purpose.

It is the purpose of this chapter to regulate activities within and outside the city limits of Sutherlin to the fullest extent allowed by state law to prevent any damage to the city sewage system constructed by the city and to protect the lives and property of the citizens of Sutherlin. (Ord. 765 § 1 (part), 1989)

13.20.020

Definitions.

As used in this chapter:

“Applicant” means a person required to obtain a vegetation removal permit.

“City” means the city of Sutherlin.

“City sewage system” means the storm sewage system of the city, including those portions of Cook, Sutherlin and Cooper Creeks within the city limits and upstream of the city limits and all other water courses, drains, pipes, culverts, ditches and other features which control or direct natural and human created water flows into and through the city.

“Critical drainage area” means the area described in Section 13.20.030.

“Height” means the distance between the point of growth furthest from the surface of the ground at the base of the vegetation and the lowest point of ground level at the base of the vegetation, measured in a straight line.

“Manager” means the city manager or the manager’s designee.

“Overstory” means vegetation which is more than twenty (20) feet in height.

“Parcel” means real property within the boundaries of an ad valorem tax lot description as found in the Douglas County, Oregon, ad valorem tax records.

“Person” means every natural person, firm, corporation, partnership or association.

“Removal of vegetation” means any action to remove or sever vegetation from its root structure or the intentional use of any procedure the natural result of which is to cause the death or substantial destruction of the vegetation. Removal of vegetation does not in any context include normal trimming, pruning or topping of vegetation.

“Understory” means vegetation which has not achieved a height greater than twenty (20) feet.

“Vegetation” means all living plant material.

“Vegetation removal permit” means a permit issued by the city authorizing the removal of vegetation subject to the restrictions of this chapter and to the conditions set forth in the vegetation removal permit.

“Water runoff” means naturally occurring precipitation within the critical drainage area which will or is likely to enter or affect the city sewage system. (Ord. 765 § 2, 1989)

13.20.030

Area of critical drainage.

A. The area included within the boundaries of lines extending from Interstate 5 due east to the point where Highway 99 crosses the ridgeline marking the highest point of drainage into Sutherlin Creek north of the city and thence eastward along that ridgeline to the intersection of a straight line drawn from the ridgeline marking the highest point of drainage into Sutherlin Creek through a point one-half mile upstream of the normal winter high water line where Sutherlin Creek flows into Plat I Reservoir and thence through a point one-half mile upstream of the normal winter high water line where Cooper Creek flows into Cooper Creek Reservoir and thence to the ridgeline marking the highest point of drainage into Cooper Creek; generally southward along such line to the ridgeline marking the highest point of drainage into Cooper Creek; westward along this ridgeline to a point due south of the confluence of Cooper Creek and Sutherlin Creek and then in a straight line westward to exit 135 on Interstate 5; then northwestward to a point one half mile upstream of the point where Cook Creek enters the city limits and then in a straight line to a point due south of the western-most point of the city limits; then north along this line through the western-most point of the city limits and due north to the intersection of this line and a line drawn due west of the point of origin on Interstate 5; and then east along this line to the point of origin on Interstate 5.

B. The manager shall keep a map of this critical drainage area at the Sutherlin City Hall, to be made available for examination during normal business hours. (Ord. 765 § 3, 1989)

13.20.040

Vegetation removal permit.

A. Any person who intends to remove, or whom the manager has determined is likely to remove, vegetation in an amount which represents more than fifty (50) percent of the overstory or seventy-five (75) percent of the understory, or any combination of understory and overstory which constitutes more than sixty (60) percent of the then living vegetation from an area totaling more than one acre within any parcel of publicly or privately owned land within the critical

13.20.050

drainage area shall secure a vegetation clearance permit from the city before commencing any removal of vegetation.

B. No vegetation removal permit shall be required for the removal of vegetation:

1. Commonly recognized as grass or weeds on any land with an average slope of less than twenty-five (25) percent;
2. With a normal growth cycle of less than one year which is harvested or removed annually as a part of normal farming or ranching operations; or
3. By any public agency or utility exercising its legal authority, or by the employees of such public agency or utility in the performance of their duties, including but not limited to the clearing of rights-of-way, and acts for fire protection or suppression. (Ord. 765 § 4, 1989)

13.20.050

Permit application.

A. An applicant shall apply for a vegetation removal permit thirty (30) days before commencing any operation to remove vegetation. Applications shall be made to the city manager in writing on forms provided by the city and shall include the following information:

1. Name, address, telephone number and authorized representative of the applicant;
2. Location of all areas of proposed vegetation removal and type and amount of vegetation to be removed;
3. Soil types, identified by soil conservation service classifications, and the minimum, maximum and average slope of the area of proposed vegetation removal;
4. The amount of vegetation to be removed and the method of removal; and
5. The steps to be taken to prevent soil erosion and an increase in water runoff above the mean annual runoff prior to the removal of vegetation.

B. For locations within the critical drainage area which have an average slope equal to or greater than twenty-five (25) percent, or which are within five hundred (500) feet of any part of the sewage system of the city, including any street and the normal winter high water level of Plat I Reservoir, Cooper Creek Reservoir, and Cook, Sutherlin and Cooper Creeks within the critical drainage area, the applicant shall submit the following additional information:

1. A statement signed by a professional hydrologist, or other person who the manager shall determine is capable of reaching a knowledgeable conclusion by reason of professional training and experience, attesting that the signatory has examined the proposed area of vegetation removal and the proposed method of vegetation removal and has determined that the applicant's proposal will not create an increased risk of flooding within the city and will not create any risk of damage to the city sewage system. Such an assessment must include an examination of the drainage patterns of the entire area, including the impact of other activities within the critical drainage area.

If the professional cannot so attest, the applicant must submit additional information showing that the applicant will take all practical steps to reduce erosion and runoff, and mitigate any damage caused by such erosion and runoff. Such a proposal shall be accompanied by a signed statement by a professional hydrologist, or other person or persons who the manager shall determine is capable of reaching a knowledgeable conclusion by reason of professional training

and experience, attesting that the applicant has proposed all economically practicable steps to avoid an increase in erosion and water runoff, and setting forth the annual average increase in erosion and water runoff likely to affect the city sewage system, and the period in years before the water runoff will return to a level within five percent of the mean annual runoff prior to the removal of vegetation;

2. A signed statement by a professional forester, or other person who the manager shall determine is capable of reaching a knowledgeable conclusion by reason of professional training and experience, attesting that the applicant's proposed method of vegetation removal represents the minimum removal of vegetation following the technically feasible method which will afford the most soil and vegetation protection while affording recovery of the costs of the operation and a reasonable return on investments. Adequate compliance with this requirement may be shown by presentation of a permit issued by the State Forester which imposes limitations on vegetation removal and provides for reforestation, and which is accompanied by a statement signed by the person issuing the permit attesting that the requirements imposed by the State Forester's permit represent compliance with state law and are the methods which, in that official's opinion, will most reduce erosion and prevent increased runoff. The method of vegetation removal selected must represent, in that official's opinion, the minimum removal of vegetation following the technically feasible method which will afford the most soil and vegetation protection while affording recovery of the costs of the operation and a reasonable return on investments. (Ord. 765 § 5, 1989)

13.20.060

Permit conditions.

A. The city manager will evaluate the data furnished by the applicant and may require additional information. If the application meets the requirements of this chapter, and is accompanied by the payment of all required fees and satisfactory evidence of financial responsibility, the city shall issue a vegetation removal permit.

B. Permits shall be issued for a specified time period, not to exceed twelve (12) months.

C. Vegetation removal permits shall be expressly subject to all provisions of this chapter and to the methods of vegetation removal proposed in the application. Permits may contain the following conditions:

1. Evidence of the posting of a bond or the issuance of insurance naming the city as a beneficiary not subject to cancellation for nonpayment of premiums, adequate to protect the city and the residents of the city from any harm which might result from flooding or damage to the sewage system which was in any way caused by or contributed to by the applicant's removal of vegetation;

2. The manager may require the applicant to furnish indemnity insurance or an indemnity bond sufficient to indemnify the city, the manager and any city employee from any claim that might arise out of the granting of the permit to remove vegetation;

13.20.070

3. Additional fees or monetary contributions that the manager determines are necessary to compensate the city for additional construction or repairs to the sewage system made necessary by the proposed removal of vegetation; and

4. Other conditions as deemed appropriate by the city manager to achieve compliance with this chapter. (Ord. 765 § 6, 1989)

13.20.070

Duties of the manager.

A. The manager shall adopt rules establishing application fees for a vegetation removal permit and all other rules necessary for the effective implementation of this chapter.

B. In determining whether a proposed removal of vegetation is consistent with the provisions of this chapter, the city manager shall base the decision on one or more of the following:

1. The topography of the land and the effect of removal on erosion, soil retention, stability of earth, flow and character of surface waters and streams;

2. The effect the vegetation removal has on the city sewage system and the risk of flooding within the city;

3. The necessity to remove vegetation in order to construct proposed improvements, or to otherwise utilize the applicant's property in a reasonable manner;

4. The adequacy of the applicant's proposals, if any, to plant new vegetation as a substitute for the vegetation to be removed;

5. That the removal would be compatible with generally accepted practices of horticulture, silviculture or landscape architecture;

6. If applicable, that the removal is within the guidelines set forth in the Field Guide to Oregon Forestry Practices Rules published by the state of Oregon, Department of Forestry, as they apply to the southwest Oregon region, or the corresponding future publication of the state of Oregon Department of Forestry. (Ord. 765 § 7, 1989)

13.20.080

Appeal from city manager's denial.

A. An applicant may appeal the city manager's permit denial to the city council by filing a written notice of appeal with the city manager within thirty (30) business days from the date of the denial.

B. The council shall hear and determine the appeal at its first regularly scheduled meeting occurring after receipt of the notice of appeal.

C. The appellant shall carry the burden of proving the proposed removal of vegetation is consistent with the criteria of Section 13.20.070 and wherein the city manager erred in his or her denial. (Ord. 765 § 8, 1989)

13.20.090**Violations—Penalties.**

A. Any person violating this chapter, or the conditions of a vegetation removal permit issued in compliance with this chapter, shall be civilly liable for any damage resulting from such a violation. Where it can be shown that the actions of any person in violation of this chapter contributed to any damage suffered by the city or the residents of the city, but the amount that such violation contributed to any damage suffered can not be determined, any such person shall be jointly and severally liable for all damage suffered.

B. Any person violating this chapter, or the conditions of a vegetation removal permit issued in compliance with this chapter, shall be guilty of a violation, and shall be fined in an amount not to exceed one thousand dollars (\$1,000.00) for each acre of land on which vegetation was removed in violation of this chapter. (Ord. 765 § 9, 1989)