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CHAPTER 50: UTILITIES GENERALLY

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GENERAL PROVISIONS**§ 50.01 LIENS.**

(A) *Authority to record and collect liens.* Whenever any ordinance or resolution provides for establishment of a lien in favor of the city, the City Recorder is empowered and authorized on behalf of the city to enter the lien in the city's lien docket as provided and mail a notice thereof to the owner as provided in division (E) below. The City Recorder shall cause to be collected and may pursue such collection actions available at law as is deemed in the best interests of the city. The City Recorder shall maintain records of the amount so collected and proceedings to collect the same.

(B) *Records of liens.* The City Recorder shall keep a record of all liens imposed or assessed upon property for any purpose by the city and such a record shall be known as the lien docket.

(C) *Contents of lien docket.* Each lien, except for liens for delinquent water and sewer charges, shall be recorded under separate headings in the lien docket. The record of liens shall state the nature of the lien, the description of each lot or parcel of land or other property upon which the lien is imposed for which an assessor's map and tax lot description shall be sufficient, the name of the owner of the property subject to the lien, the amount of the lien which is unpaid, the amount paid or credited to the lien, and such other data as may be required by the City Council.

(D) *Street, sewer, water improvement, and water and sewer service charge liens.*

(1) All sums owing for street, water, water improvement, water and sewer service charges, or for other charges and sums owing, if over 60 days past due, shall constitute a lien against the real property being served. The monthly report of account status maintained by the City Recorder's office and associated records as to shall make such records available for public inspection.

(2) Said lien for unpaid water and sewer charges and fees shall extend to and cover all real property contiguous to, and under the same ownership as, the structure or place served by the delinquent

sewer and water account. It shall be sufficient if the city's records provide a street address or other suitable information from which the service location can be determined.

(3) Said lien for unpaid street, sewer, water improvements, and other liens shall extend to and cover all real property contiguous to, and under the same ownership as, the structure of places served by the delinquent account. It shall be sufficient if the city's records provide a street address or other suitable information from which the service location can be determined.

(E) *Notice of lien.*

(1) Upon entry of a lien upon the lien docket, the City Recorder shall mail notice thereof to the last known address of said owner. No notice of lien is required to be mailed in connection with liens for service under division (D) above.

(2) Failure of the City Recorder to mail notice of lien as provided in division (A) above shall not affect the validity or enforceability of said lien.

(F) *Interest.* All sums secured by a lien shall continue to bear interest at the rate provided by law of 9% and the same shall commence 60 days from the date the city requests payment as stated in the city's General Fee Resolution.

(G) *Enforcement.* Unless otherwise provided for by ordinance, all liens shall be enforced and assessments collected in the manner established by O.R.S. 223.505 through 223.590 as now or hereafter enacted.

(H) *Foreclosure.* The city shall have, in addition to all other remedies provided by laws and equity, the power to foreclose municipal liens as provided in O.R.S. Chapter 223 and shall follow the procedures for enforcement of said liens as provided herein.

(I) *Administrative costs.* In addition to any other charges, the owner of the real property upon which a lien is imposed shall, by a fee set forth in the city's General Fee Resolution, pay for recording and administrative costs.

(J) *Recovery of attorney fees.* In the event of a foreclosure of any lien imposed thereby, the city shall be entitled to recover reasonable attorney fees incurred therein.

(Ord. 2019-02, passed 2-8-2019)

Statutory reference:

Related provisions, see O.R.S. Chapter 223 and 223.505 through 223.590

§ 50.02 RATES AND CHARGES SET BY RESOLUTION.

(A) Rates and charges for use of the water and wastewater systems, charges for initiation and termination of service, meter testing charges, water meter testing fees, and related terms and conditions of water and wastewater system use shall be set by City Council resolution.

(B) The methodology used to establish water use charges shall consider the estimated cost of maintenance, repair, rehabilitation, and replacement of the water system including associated engineering, architectural, and legal expenses. The cost of operation and administration of the water system and charges shall be based upon water consumption. The City Council may set different rates for premises located outside of city limits.

(C) The methodology used to establish wastewater use charges shall consider the estimated cost of maintenance, repair, rehabilitation, and replacement of the wastewater system including associated engineering, architectural, and legal expenses. The cost of operation and administration of the wastewater system and charges shall be based upon water consumption and demand placed upon the wastewater system by each user or type of use. The City Council may set different rates for premises located outside of city limits.

(Prior Code, § 55.01) (Ord. 04-05, passed 2-4-2004)

§ 50.03 RIGHT OF ENTRY.

City employees shall, at all reasonable times, have access to any premises provided water, wastewater, or storm water services by the city for inspection, repair, or replacement of the existing service or services or the enforcement of the provisions of this subchapter.

(Prior Code, § 55.02) (Ord. 04-05, passed 2-4-2004)

§ 50.04 ADMINISTRATIVE ANNEXATION.

(A) Annexation or consent to annexation required for service provided outside of city limits.

(1) Prior to any connection to the city water system, wastewater system, or storm water system outside city limits, a consent to annexation shall be provided to the city and recorded in the Deed Records of the county for all premises which may be served by the connection(s).

(2) If connection to the city's water system, wastewater system, or storm water system was initially made without providing a consent to annexation for the premises served, a consent to annexation shall be required as a condition of any further development of the premises.

(3) In lieu of a consent to annexation, the city may require annexation as a condition of connection to the city's water system, wastewater system, or storm water system for premises contiguous to city limits or separated from the city only by a public right-of-way, stream, or other body of water.

(4) The consent to annexation shall be on forms provided by the city. The owner of the property shall cause the consent to annexation to be recorded in the Deed Records of the county and shall be responsible for paying the recording fees.

(B) *Administrative annexation of contiguous property.*

(1) Any parcel contiguous to city limits or separated from the city only by a public right-of-way, stream, or other body of water for which the city has received a consent to annexation pursuant to this subchapter or otherwise in exchange for provision of extraterritorial water, wastewater, or storm water service or is being annexed as a condition of approval pursuant to this subchapter shall be annexed into the city pursuant to the provisions of this subchapter.

(2) Annexations under this subchapter shall be conducted in accordance with the applicable provisions of the state statutes but shall not be subject to the provisions of land use laws.
(Prior Code, § 55.03) (Ord. 04-05, passed 2-4-2004)

UTILITY FACILITIES IN PUBLIC RIGHTS-OF-WAY

§ 50.15 TITLE, PURPOSE, AND INTENT.

(A) *Title.* The ordinance codified in this subchapter shall be known and may be referenced as the “Utility Facilities in Public Rights-of-Way” ordinance.
(Prior Code, § 96.01)

(B) *Purpose and intent.* The purpose and intent of this subchapter is to:

(1) Permit and manage reasonable access to the rights-of-way of the city for utility purposes and conserve the limited physical capacity of those rights-of-way held in trust by the city consistent with applicable state and federal law;

(2) Assure the city’s current and ongoing costs of granting and regulating access to and the use of the rights-of-way are fully compensated by the persons seeking such access and causing such costs;

(3) Secure fair and reasonable compensation to the city and its residents who have invested millions of dollars in public funds to build and maintain the rights-of-way for permitting use of the rights-of-way by persons who generate revenue by placing facilities therein and charging residents for services delivered thereby;

(4) Assure that all utility companies, persons, and other entities owning or operating facilities or providing services within the city register and comply with the ordinances, rules, and regulations of the city;

(5) Assure that the city can continue to fairly and responsibly protect the public health, safety, and welfare of its residents and assure the structural integrity of its rights-of-way when a primary cause for the early and excessive deterioration of the rights-of-way is the frequent excavation by persons whose facilities are located therein; and

(6) Encourage the provision of advanced and competitive utility services on the widest possible basis to businesses and residents of the city.

(Prior Code, § 96.02)

(Ord. 2017-02, passed 6-7-2017)

§ 50.16 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, 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.

CABLE SERVICE. As consistent with federal laws, the one-way transmission to subscribers of video programming or other programming service and any subscriber interaction, which is required for the selection or use of such video programming or other programming service, shall constitute a **CABLE SERVICE**.

CITY. The City of Condon, an Oregon municipal corporation, and individuals authorized to act on the city's behalf.

CITY COUNCIL. The elected governing body of the City of Condon, Oregon.

CITY FACILITIES. City or publicly owned structures or equipment located within the rights-of-way or public easement used for governmental purposes.

COMMUNICATIONS SERVICES. Any service provided for the purpose of transmission of information including, but not limited to, fiber, internet, voice, video, or data without regard to the transmission protocol employed whether or not the transmission medium is owned by the provider itself. **COMMUNICATIONS SERVICES** includes all forms of telephone services and voice, video, data, or information transport but does not include cable service, open video system service as defined in 47 C.F.R. part 76, over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto, public communications systems, and direct-to-home satellite service within the meaning of the Telecommunications Act, § 602.

LICENSE. The authorization granted by the city to a utility operator pursuant to this subchapter.

MAY. The act referred to is permissive.

PERSON. Includes any individual, firm, sole proprietorship, corporation, company, partnership, co-partnership, joint-stock company, trust, limited liability company, association, local service district, governmental entity, or other organization as well as any natural person or any other legal entity.

PUBLIC COMMUNICATIONS SYSTEM. Any system owned or operated by a government entity or entities for their exclusive use for internal communications or communications with other government

entities and includes services provided by the state pursuant to O.R.S. 190.240 and 283.140. **PUBLIC COMMUNICATIONS SYSTEM** does not include any system used for sale or resale, including trade or barter or other exchange of value, of communications services or capacity on the system, directly or indirectly, to any person.

PUBLIC UTILITY EASEMENT. The space in, upon, above, along, across, over, or under an easement for the construction, reconstruction, operation, maintenance, inspection, and repair of utility facilities. **PUBLIC UTILITY EASEMENT** does not include an easement solely for the construction, reconstruction, operation, maintenance, inspection, and repair of city facilities or where the proposed use by the utility operator is inconsistent with the terms of any easement granted to the city.

PUBLIC WORKS SUPERINTENDENT. The Public Works Superintendent for the City of Condon or any designee.

RIGHTS-OF-WAY. Includes, but is not limited to, the space in, upon, above, along, across, over, or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements, and all other public ways or areas including the subsurface under and air space over these areas but does not include parks, parkland, or other city property not generally open to the public for travel. This definition applies only to the extent of the city's right, title, interest, and authority to grant a license to occupy and use such areas for utility facilities.

SHALL. The act referred to is mandatory. **SHALL** includes **WILL**.

STATE. The State of Oregon.

UTILITY FACILITY or **FACILITY.** Any physical component of a system including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, transmitters, plants, equipment, and other facilities located within, under, or above the rights-of-way of which any portion is used or designed to be used to deliver, transmit, or otherwise provide utility service.

UTILITY OPERATOR or **OPERATOR.** Any person who owns, places, operates, or maintains a utility facility within the city.

UTILITY SERVICE. The provision by means of utility facilities permanently located within, under, or above the rights-of-way, whether or not such facilities are owned by the service provider, of electricity, natural gas, communications services, cable services, water, or sewer or storm sewer to or from customers within the corporate boundaries of the city or the transmission of any of these services through the city whether or not customers within the city are served by those transmissions.

WORK. The construction, demolition, installation, replacement, repair, maintenance, or relocation of any utility facility including, but not limited to, any excavation and restoration required in association with such construction, demolition, installation, replacement, repair, maintenance, or relocation.

(Prior Code, § 96.05) (Ord. 2017-02, passed 6-7-2017)

Statutory reference:

Related provisions, see O.R.S. 190.240 and 283.140

§ 50.17 JURISDICTION AND MANAGEMENT.

(A) The city has jurisdiction and exercises regulatory management over all rights-of-way within the city under authority of the city charter and state law.

(B) The city has jurisdiction and exercises regulatory management over each right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way and whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure, or other means.

(C) The exercise of jurisdiction and regulatory management of a right-of-way by the city is not official acceptance of the right-of-way and does not obligate the city to maintain or repair any part of the right-of-way.

(D) The provisions of this subchapter are subject to and will be applied consistent with applicable state and federal laws, rules, and regulations and, to the extent possible, shall be interpreted to be consistent with such laws, rules, and regulations.

(Prior Code, § 96.03) (Ord. 2017-02, passed 6-7-2017)

§ 50.18 REGULATORY FEES AND COMPENSATION.

(A) The fees and costs provided for in this subchapter and any compensation charged and paid for use of the rights-of-way provided for in this subchapter are separate from, and in addition to, any and all other federal, state, local, and city charges including any permit fee or any other generally applicable fee, tax, or charge on the business, occupation, property, or income as may be levied, imposed, or due from a utility operator, its customers, or subscribers or on account of the lease, sale, delivery, or transmission of utility services.

(B) The city has determined that any fee or tax provided for by this subchapter is not subject to the property tax limitations of Article XI, § 11(a) and (b) of the state's Constitution. These fees or taxes are not imposed on property or property owners.

(C) The fees and costs provided for in this subchapter are subject to applicable federal and state laws.

(Prior Code, § 96.04) (Ord. 2017-02, passed 6-7-2017)

§ 50.19 REGISTRATION.

(A) *Registration required.* Every person who desires to provide utility services to customers within the city shall register with the city prior to providing any utility services to any customer in the city. Every person providing utility services to customers within the city as of the effective date of this subchapter shall register within 45 days of the effective date of this subchapter.

(B) *Registration application.* The registration shall be on a form provided by the city and shall be accompanied by any additional documents required by the city to identify the registrant and its legal status, describe the type of utility services provided or to be provided by the registrant, and list the facilities over which the utility services will be provided.

(C) *Registration fee.* Each application for registration shall be accompanied by a non-refundable registration fee in an amount to be determined by resolution of the City Council sufficient to fully recover all of the city's costs of administering the registration program.

(Prior Code, § 96.06) (Ord. 2017-02, passed 6-7-2017)

§ 50.20 LICENSES.

(A) *License required.*

(1) Except those utility operators with a valid franchise agreement from the city, every person shall obtain a license from the city prior to conducting any work in the rights-of-way.

(2) Every person that owns or controls utility facilities in the rights-of-way as of the effective date of this subchapter shall apply for a license from the city within 45 days of the later of the effective date of this subchapter or the expiration of a valid franchise from the city unless a new franchise is granted by the city pursuant to division (E) below.

(B) *License application.* The license application shall be on a form provided by the city and shall be accompanied by any additional documents required by the application to identify the applicant, its legal status including its authorization to do business in the state, a description of the type of utility service provided or to be provided by the applicant and the facilities over which the utility service will be provided, and other information reasonably necessary to determine the applicant's ability to comply with the terms of this subchapter.

(C) *License application fee.* The application shall be accompanied by a non-refundable application fee or deposit set by resolution of the City Council in an amount sufficient to fully recover all of the city's costs related to processing the application for the license.

(D) *Determination by city.* The city shall issue, within a reasonable period of time, a written determination granting or denying the license in whole or in part. If the license is denied, the written determination shall include the reasons for denial. The license shall be evaluated based upon the provisions of this subchapter, the continuing capacity of the rights-of-way to accommodate the applicant's proposed utility facilities, and the applicable federal, state, and local laws, rules, regulations, and policies.

(E) *Franchise agreements.* If the public interest warrants, the city and utility operator may enter into a written franchise agreement that includes terms that clarify, enhance, expand, waive, or vary the provisions of this subchapter consistent with applicable state and federal law. The franchise may conflict with the terms of this subchapter with the review and approval of the City Council. The franchise shall

be subject to the provisions of this subchapter to the extent such provisions are not in conflict with any such franchise. In the event of a conflict between the express provisions of a franchise and this subchapter, the franchise shall control.

(F) *Rights granted.*

(1) The license granted hereunder shall authorize and permit the licensee, subject to the provisions of the city code and other applicable provisions of state or federal law, to construct, place, maintain, and operate utility facilities in the rights-of-way for the term of the license.

(2) Any license granted pursuant to this chapter shall not convey equitable or legal title in the rights-of-way and may not be assigned or transferred except as permitted in division (K) below.

(3) Neither the issuance of the license nor any provisions contained therein shall constitute a waiver or bar to the exercise of any governmental right or power, unlimitedly including the police power or regulatory power of the city, as it may exist at the time the license is issued or thereafter obtained.

(G) *Term.* Subject to the termination provisions in division (M) below, the license granted pursuant to this subchapter will remain in effect for a term of five years.

(H) *License nonexclusive.* No license granted pursuant to this section shall confer any exclusive right, privilege, license, or franchise to occupy or use the rights-of-way for delivery of utility services or any other purpose. The city expressly reserves the right to grant licenses, franchises, or other rights to other persons as well as the city's right to use the rights-of-way for similar or different purposes. The license is subject to all recorded deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record that may affect the rights-of-way. Nothing in the license shall be deemed to grant, convey, create, or vest in licensee a real property interest in land including any fee, leasehold interest, or easement.

(I) *Reservation of city rights.* Nothing in the license shall be construed to prevent the city from grading, paving, repairing, or altering any rights-of-way or constructing, laying down, repairing, relocating, or removing city facilities or establishing any other public work, utility, or improvement of any kind including repairs, replacement, or removal of any city facilities. If any of a licensee's utility facilities interfere with the construction, repair, replacement, alteration, or removal of any rights-of-way, public work, city utility, city improvement, or city facility, except those providing utility services in competition with a licensee, the licensee's facilities shall be removed or relocated as provided in § 50.22(C) through (E) in a manner acceptable to the city and consistent with industry standard engineering and safety codes.

(J) *Multiple services.*

(1) A utility operator that provides or transmits or allows the provision or transmission of utility services and other services over its facilities is subject to the license and right-of-way fee requirements of this subchapter for the portion of the facilities and extent of utility services delivered

over those facilities. Nothing herein requires a utility operator to pay the license, registration, or right-of-way fee requirements owed to the city by a third party using the utility operator's facilities.

(2) A utility operator that provides or transmits more than one utility service over its facilities is not required to obtain a separate license or franchise for each utility service provided that it gives notice to the city of each utility service provided or transmitted and pays the applicable rights-of-way fee for each utility service.

(K) *Transfer or assignment.* Unless exempted by applicable state and federal laws, the licensee shall obtain the written consent of the city prior to the transfer or assignment of the license. The license shall not be transferred or assigned unless the proposed transferee or assignee is authorized under all applicable laws to own or operate the utility system and the transfer or assignment is approved by all agencies or organizations required or authorized under federal and state laws to approve such transfer or assignment. If a license is transferred or assigned, the transferee or assignee shall become responsible for fulfilling all the obligations under the license with respect to all facilities of the licensee at the time of transfer or assignment. A transfer or assignment of a license does not extend the term of the license.

(L) *Renewal.* At least 90 but no more than 180 days prior to the expiration of a license granted pursuant to this subchapter, a licensee seeking renewal of its license shall submit a license application to the city including all information required in division (B) above and the application fee required in division (C) above. The city shall review the application as required by division (D) above and grant or deny the license within 90 days of submission of the application. If the city determines that the licensee is in violation of the terms of this subchapter at the time it submits its application, the city may require that the licensee cure the violation or submit a detailed plan to cure the violation within a reasonable period of time, as determined by the city, before the city will consider the application or grant the license. If the city requires the licensee to cure or submit a plan to cure a violation, the city will grant or deny the license application within 90 days of confirming that the violation has been cured or of accepting the licensee's plan to cure the violation.

(M) *Termination.*

(1) *Revocation or termination of a license.* The City Council may terminate or revoke the license granted pursuant to this subchapter for any of the following reasons:

(a) Violation of any of the provisions of this subchapter;

(b) Violation of any provision of the license;

(c) Misrepresentation in a license application;

(d) Failure to pay taxes, compensation, fees, or costs due to the city after final determination of the taxes, compensation, fees, or costs;

(e) Failure to restore the rights-of-way after construction as required by this subchapter or other applicable state and local laws, ordinances, rules, and regulations;

(f) Failure to comply with technical, safety, and engineering standards related to work in the rights-of-way; and/or

(g) Failure to obtain or maintain any and all licenses, permits, certifications, and other authorizations required by state or federal law for the placement, maintenance, or operation of the utility facilities.

(2) *Standards for revocation or termination.* In determining whether termination, revocation, or some other sanction is appropriate, the following factors shall be considered:

- (a) Whether the violation was intentional;
- (b) The egregiousness of the violation;
- (c) The harm that resulted;
- (d) The utility operator's history of compliance; and
- (e) The utility operator's cooperation in discovering, admitting, and curing the violation.

(3) *Notice and cure.* The city shall give the utility operator written notice of any apparent violations before terminating a license. The notice shall include a clear and concise statement of the nature and general facts of the violation or noncompliance and provide a reasonable time, no less than 20 and no more than 40 days, for the utility operator to demonstrate that the utility operator has remained in compliance, that the utility operator has cured or is in the process of curing any violation or noncompliance, or that it would be in the public interest to impose a penalty or sanction less than termination or revocation. If the utility operator is in the process of curing a violation or noncompliance, the utility operator must demonstrate that it acted promptly and continues to actively work on compliance. If the utility operator does not respond, the Public Works Superintendent shall refer the matter to the City Council which shall provide a duly noticed public hearing to determine whether the license shall be terminated or revoked.

(Prior Code, § 96.07) (Ord. 2017-02, passed 6-7-2017)

§ 50.21 CONSTRUCTION AND RESTORATION.

(A) *Construction codes.* Utility facilities shall be constructed, installed, operated, and maintained in accordance with all applicable federal, state, and local codes, rules, and regulations including, without limitation, the National Electrical Code and the National Electrical Safety Code.

(B) *Injury to persons or property.* A utility operator shall preserve and protect from injury or damage other utility operators' facilities in the rights-of-way, the public using the rights-of-way and any adjoining property, and take other necessary measures to protect life and property including, but not limited to, buildings, walls, fences, trees, or facilities that may be subject to damage from the permitted work. A utility operator shall use suitable barricades, flags, flagging attendants, lights, flares, and other

measures as required for the safety of all members of the general public and shall comply with all applicable Americans with Disabilities Act requirements.

(C) *Restoration.* A utility operator shall be responsible for all injury to persons or damage to public or private property resulting from its failure to properly protect people and property and to carry out the work.

(1) When a utility operator or any person acting on its behalf does any work in or affecting any rights-of-way, it shall, at its own expense, promptly restore such ways or property to the same or better condition as existed before the work was undertaken in accordance with applicable federal, state, and local laws, codes, ordinances, rules, and regulations unless otherwise directed by the city and as determined by the Public Works Department.

(2) If weather or other conditions beyond the utility operator's control do not permit the complete restoration required by the city, the utility operator shall temporarily restore the affected rights-of-way or property. Such temporary restoration shall be at the utility operator's sole expense and the utility operator shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule may be subject to approval by the city.

(3) If the utility operator fails to restore rights-of-way or property as required in this subchapter, the city shall give the utility operator written notice and provide a period of time not less than ten days and not exceeding 30 days to restore the rights-of-way or property. If after said notice the utility operator fails to restore the rights-of-way or property as required in this subchapter, the city shall cause such restoration to be made at the expense of the utility operator. In cases where the city believes that an emergency or threat to public safety exists, it may act without notice to and at the expense of the utility operator. Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city within 30 days for the costs the city incurred.

(D) *Inspection.* Every utility operator's facilities shall be subject to the right of periodic inspection by the city to determine compliance with the provisions of this subchapter and all other applicable state and city codes, ordinances, rules, and regulations. Every utility operator shall cooperate with the city in permitting the inspection of utility facilities upon request of the city. The utility operator shall perform all testing, or permit the city to perform any testing at the utility operator's expense, required by the city to determine that the installation of the utility operator's facilities and the restoration of the rights-of-way comply with the terms of this subchapter and applicable state and city codes, ordinances, rules, and regulations.

(E) *Coordination of construction.* All utility operators are required to make a good faith effort to both cooperate with and coordinate their construction schedules with those of the city and other users of the rights-of-way.

(1) Prior to January 1 of each year, utility operators shall provide the city with a schedule of known proposed construction activities for that year in, around, or that may affect the rights-of-way.

(2) At the city's request, utility operators shall meet with the city annually, or as determined by the city, to schedule and coordinate construction in the rights-of-way.

(3) All construction locations, activities, and schedules within the rights-of-way shall be coordinated as ordered by the Public Works Department to minimize public inconvenience, disruption, or damages.

(Prior Code, § 96.08) (Ord. 2017-02, passed 6-7-2017)

§ 50.22 LOCATION OF FACILITIES.

(A) *Location of facilities.* Unless otherwise agreed to in writing by the city, whenever any existing electric utilities, cable facilities, or communications facilities are located underground within a right-of-way of the city, a utility operator with permission to occupy the same right-of-way shall locate its facilities underground at its own expense. This requirement shall not apply to facilities used for transmission of electric energy at nominal voltages in excess of 50,000 volts or to pedestals, cabinets, or other above-ground equipment of any utility operator. No such above-ground equipment or any aerial facilities other than electric energy transmission wires in excess of 50,000 volts shall be constructed without the written approval of the city.

(B) *Interference with the rights-of-way.* No utility operator or other person may locate or maintain its facilities so as to unreasonably interfere with the use of the rights-of-way by the city by the general public or by other persons authorized to use or be present in or upon the rights-of-way. All use of the rights-of-way shall be consistent with city codes, ordinances, rules, and regulations.

(C) *Relocation of utility facilities.*

(1) When requested to do so in writing by the city, a utility operator shall, at no cost to the city, temporarily, or permanently remove, relocate, change, or alter the position of any utility facility within a right-of-way including relocation of aerial facilities underground.

(2) Nothing herein shall be deemed to preclude the utility operator from requesting reimbursement or compensation from a third party pursuant to applicable laws, regulations, tariffs, or agreements. However, the utility operator shall timely comply with the requirements of this section regardless of whether or not it has requested or received such reimbursement or compensation.

(3) The city shall coordinate the schedule for relocation of utility facilities and, based on such effort, shall provide written notice of the time by which the utility operator must remove, relocate, change, alter, or underground its facilities. If a utility operator fails to remove, relocate, change, alter, or underground any utility facility as requested by the city and by the date reasonably established by the city, the utility operator shall pay all costs incurred by the city due to such failure including, but not limited to, costs related to project delays; the city may cause, using qualified workers in accordance with applicable state and federal laws and regulations, the utility facility to be removed, relocated, changed, altered, or undergrounded at the utility operator's sole expense. Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city within 30 days for the costs the city incurred.

(D) *Removal of unauthorized facilities.*

(1) Unless otherwise agreed to in writing by the Public Works Department, within 30 days following written notice from the city or such other time agreed to in writing by the Public Works Department, a utility operator and any other person that owns, controls, or maintains any abandoned or unauthorized utility facility within a right-of-way shall, at its own expense, remove the facility and restore the right-of-way to city standards.

(2) A utility system or facility is unauthorized under any of the following circumstances.

(a) The utility facility is outside the scope of authority granted by the city under the license, franchise, or other written agreement. This includes facilities that were never licensed or franchised and facilities that were once licensed or franchised but for which the license or franchise has expired or been terminated. This does not include any facility for which the city has provided written authorization for abandonment in place.

(b) The facility has been abandoned and the city has not provided written authorization for abandonment in place. A facility is abandoned if it is not in use and is not planned for further use. A facility will be presumed abandoned if it is not used for a period of one year. A utility operator may attempt to overcome this presumption by presenting plans for future use of the facility to the Public Works Department which will determine application of the presumption in its sole discretion.

(c) The utility facility is improperly constructed or installed or is in a location not permitted by the construction permit, license, franchise, or this subchapter.

(d) The utility operator is in violation of a material provision of this subchapter and fails to cure such violation within 30 days of the city sending written notice of such violation unless the city extends such time period in writing.

(E) *Removal by city.*

(1) The city retains the right and privilege to cut or move the facilities of any utility operator or similar entity located within the rights-of-way of the city without notice as the city may determine to be necessary, appropriate, or useful in response to a public health or safety emergency. The city will use qualified personnel or contractors consistent with applicable state and federal safety laws and regulations to the extent reasonably practicable without impeding the city's response to the emergency.

(2) If the utility operator fails to remove any facility when required to do so under this subchapter, the city may remove the facility using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations, and the utility operator shall be responsible for paying the full cost of the removal and any administrative costs incurred by the city in removing the facility and obtaining reimbursement. Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within 30 days. The obligation to remove shall survive the termination of the license or franchise.

(3) The city shall not be liable to any utility operator for any damage to utility facilities or for any consequential losses resulting directly or indirectly therefrom by the city or its contractor in removing, relocating, or altering the facilities pursuant to division (C), (D), or (E) above or undergrounding its facilities as required by division (A) above or resulting from the utility operator's failure to remove, relocate, alter, or underground its facilities as required by those divisions unless such damage arises directly from the city's negligence or willful misconduct.

(F) *Engineering designs and plans.* Upon request by the city, the utility operator shall provide the city with two complete sets of as-built plans in a form acceptable to the city showing the location of all its utility facilities in the rights-of-way after initial construction if the utility operator's engineered plans materially changed during construction. The utility operator shall provide two updated complete sets of as-built plans upon request of the Public Works Department but not more than once per year. (Prior Code, § 96.09) (Ord. 2017-02, passed 6-7-2017)

§ 50.23 LEASED CAPACITY.

A utility operator may lease capacity on or in its systems to others provided that upon request the utility operator provides the city with the name and business address of any lessee. A utility operator is not required to provide such information if disclosure is prohibited by applicable law or a valid agreement between the utility operator and the lessee provided that the utility operator takes reasonable steps to ensure that its lessees are in compliance with this subchapter. (Prior Code, § 96.10) (Ord. 2017-02, passed 6-7-2017)

§ 50.24 MAINTENANCE.

(A) Every utility operator shall install and maintain all facilities in a manner that complies with applicable federal, state, and local laws, rules, regulations, and policies. The utility operator shall, at its own expense, repair and maintain facilities from time to time as may be necessary to accomplish this purpose.

(B) If after receiving written notice from the city of the need for repair or maintenance a utility operator fails to repair and maintain facilities as requested by the city and by the date reasonably established by the city, the city may perform such repair or maintenance using qualified personnel or contractors at the utility operator's sole expense. Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within 30 days. (Prior Code, § 96.11) (Ord. 2017-02, passed 6-7-2017)

§ 50.25 VACATION.

(A) If the city vacates any rights-of-way or portion thereof that a utility operator uses, the utility operator shall, at its own expense, remove its facilities from the rights-of-way unless the city reserves

a public utility easement, which the city shall make a reasonable effort to do; provided, that there is no expense to the city or the utility operator obtains an easement for its facilities.

(B) If the utility operator fails to remove its facilities within 30 days after a right-of-way is vacated or as otherwise directed or agreed to in writing by the city, the city may remove the facilities using qualified workers in accordance with state and federal laws and regulations at the utility operator's sole expense.

(C) Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within 30 days.

(Prior Code, § 96.12) (Ord. 2017-02, passed 6-7-2017)

§ 50.26 RIGHTS-OF-WAY FEE.

(A) Except as set forth in division (B) below, every person who uses utility facilities in the city to provide utility service, whether or not the person owns the utility facilities used to provide the utility services, shall pay the rights-of-way fee for every utility service provided using the rights-of-way in the amount determined by resolution of the City Council.

(B) A utility operator whose only facilities in the rights-of-way are facilities mounted on structures within the rights-of-way, which structures are owned by another person, and with no facilities strung between such structures or otherwise within, under, or above the rights-of-way shall pay the attachment fee set by City Council resolution for each attachment. Unless otherwise agreed to in writing by the city, the fee shall be paid annually in arrears for each year during the term of the license within 30 days after the end of each calendar year and shall be accompanied by information sufficient to illustrate the calculation of the amount payable. The utility operator shall pay interest at a rate of 9% per year for any payment made after the due date.

(C) Rights-of-way fee payments required by this section shall be reduced by any franchise fee payments received by the city but in no case will be less than \$0.

(D) Unless otherwise agreed to in writing by the city, the fee set forth in division (A) above shall be paid quarterly in arrears for each quarter during the term of the license within 30 days after the end of each calendar quarter and shall be accompanied by an accounting of gross revenues, if applicable, and a calculation of the amount payable. The utility operator shall pay interest at a rate of 9% per year for any payment made after the due date.

(E) The calculation of the rights-of-way fee required by this section shall be subject to all applicable limitations imposed by federal or state law.

(F) The city reserves the right to enact other fees and taxes applicable to the utility operators subject to this chapter. Unless expressly permitted by the city in enacting such fee or tax or required by applicable state or federal law, no utility operator may deduct, offset, or otherwise reduce or avoid the

obligation to pay any lawfully enacted fees or taxes based on the payment of the rights-of-way fee or any other fees required by this subchapter.

(Prior Code, § 96.13) (Ord. 2017-02, passed 6-7-2017)

§ 50.27 AUDITS.

(A) Within 30 days of a written request from the city, or as otherwise agreed to in writing by the city, the following applies.

(1) Every provider of utility service shall furnish the city with information sufficient to demonstrate that the provider is in compliance with all the requirements of this subchapter and its franchise agreement, if any, including, but not limited to, payment of any applicable registration fee, rights-of-way fee, or franchise fee.

(2) Every utility operator shall make available for inspection by the city at reasonable times and intervals all maps, records, books, diagrams, plans, and other documents maintained by the utility operator with respect to its facilities within the rights-of-way or public utility easements. Access shall be provided within the city unless prior arrangement for access elsewhere has been made with the city.

(B) If the city's audit of the books, records, and other documents or information of the utility operator or utility service provider demonstrates that the utility operator or provider has underpaid the rights-of-way fee or franchise fee by 3% or more in any one year, the utility operator shall reimburse the city for the cost of the audit in addition to any interest owed pursuant to § 50.26(D) or as specified in a franchise.

(C) Any underpayment, including any interest or audit cost reimbursement, shall be paid within 30 days of the city's notice to the utility service provider of such underpayment.
(Prior Code, § 96.14) (Ord. 2017-02, passed 6-7-2017)

§ 50.28 INSURANCE AND INDEMNIFICATION.

(A) *Insurance.*

(1) All utility operators shall maintain in full force and effect the following liability insurance policies that protect the utility operator and the city as well as the city's officers, agents, and employees:

(a) Comprehensive general liability insurance with limits not less than:

1. Three million dollars for bodily injury or death to each person;
2. Three million dollars for property damage resulting from any one accident; and

3. Three million dollars for all other types of liability.

(b) Motor vehicle liability insurance for owned, non-owned, and hired vehicles with a limit of \$1,000,000 for each person and \$3,000,000 for each accident; and

(c) Worker's compensation within statutory limits and employer's liability with limits of not less than \$1,000,000.

(2) The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the state. The insurance shall be without prejudice to coverage otherwise existing and shall name, or the certificate of insurance shall name, as additional insureds the city and its officers, agents, and employees. The coverage must apply as to claims between insureds on the policy. The utility operator shall provide the city 30 days' prior written notice of any cancellation or material alteration of said insurance. If the insurance is canceled or materially altered, the utility operator shall maintain continuous uninterrupted coverage in the terms and amounts required. The utility operator may self-insure, or keep in force a self-insured retention plus insurance, for any or all of the above coverage.

(3) The utility operator shall maintain on file with the city a certificate of insurance or proof of self-insurance acceptable to the city certifying the coverage required above.

(B) *Financial assurance.* Unless otherwise agreed to in writing by the city, a license issued pursuant to this subchapter is effective, and as necessary thereafter, the utility operator shall provide a performance bond or other financial security in a form acceptable to the city as security for the full and complete performance of the franchise or license and for compliance with the terms of this subchapter including any costs, expenses, damages, or loss to the city because of any failure attributable to the utility operator to comply with the codes, ordinances, rules, regulations, or permits of the city. This obligation is in addition to the performance surety required by § 50.21(C).

(C) *Indemnification.*

(1) To the fullest extent permitted by law, each utility operator shall defend, indemnify, and hold harmless the city and its officers, employees, agents, and representatives from and against any and all liability, causes of action, claims, damages, losses, judgments, and other costs and expenses including attorney fees and costs of suit or defense at both the trial and appeal level, whether or not a trial or appeal ever takes place, that may be asserted by any person or entity in any way arising out of, resulting from, during, or in connection with or alleged to arise out of or result from the negligent, careless, or wrongful acts, omissions, failure to act, or other misconduct of the utility operator or its affiliates, officers, employees, agents, contractors, subcontractors, or lessees in the construction, operation, maintenance, repair, or removal of its facilities and in providing or offering utility services over the facilities, whether such acts or omissions are authorized, allowed, or prohibited by this subchapter or by a franchise agreement. The acceptance of a license under § 50.20 shall constitute such an agreement by the applicant whether the same is expressed or not. Upon notification of any such claim, the city shall notify the utility operator and provide the utility operator with an opportunity to provide defense regarding any such claim.

(2) Every utility operator shall also indemnify the city for any damages, claims, additional costs, or expenses assessed against or payable by the city arising out of or resulting, directly or indirectly, from the utility operator's failure to remove or relocate any of its facilities in the rights-of-way or easements in a timely manner unless the utility operator's failure arises directly from the city's negligence or willful misconduct.

(Prior Code, § 96.15) (Ord. 2017-02, passed 6-7-2017)

§ 50.29 COMPLIANCE.

Every utility operator shall comply with all applicable federal and state laws and regulations including regulations of any administrative agency thereof as well as all applicable ordinances, resolutions, rules, and regulations of the city heretofore or hereafter adopted or established during the term of any license granted under this subchapter.

(Prior Code, § 96.16) (Ord. 2017-02, passed 6-7-2017)

§ 50.30 CONFIDENTIAL OR PROPRIETARY INFORMATION.

(A) If any person is required by this subchapter to provide books, records, maps, or information to the city that the person reasonably believes to be confidential or proprietary, the city shall take reasonable steps to protect the confidential or proprietary nature of the books, records, maps, or information to the extent permitted by the state's Public Records Law provided that all documents are clearly marked as confidential by the person at the time of disclosure to the city.

(B) The city shall not be required to incur any costs to protect such documents other than the city's routine internal procedures for complying with the state's Public Records Law.

(Prior Code, § 96.17) (Ord. 2017-02, passed 6-7-2017)

Statutory reference:

Related provisions, see O.R.S. Chapter 192

§ 50.31 EQUAL EMPLOYMENT OPPORTUNITY; DIVERSITY; MINORITY BUSINESS ENTERPRISES.

(A) *Equal employment opportunity.*

(1) The utility operator shall fully comply with applicable equal employment opportunity requirements of federal, state, and local law.

(2) The utility operator shall maintain a policy that all employment decisions, practices, and procedures are based on merit and ability without discrimination on the basis of an individual's race, color, religion, age, sex, national origin, sexual orientation, or disability.

(B) *Diversity in workforce.* The utility operator is expected to make a determined and good-faith effort to employ and advance in employment women, minorities, and persons with disabilities.

(C) *Minority, female, and emerging small business enterprises.*

(1) The utility operator is expected to make determined and good-faith efforts to use minority-owned, women-owned, and emerging small businesses (MWESBs) along with service disabled veteran businesses in its contracted expenditures including, without limitation, contracts for the acquisition of goods, services, materials, supplies, and equipment used in the construction, maintenance, and operation of its utility facilities.

(2) In furtherance of the utility operator's efforts in this area, the city will be available to consult with the utility operator in providing information on, and support regarding, certified MWESB enterprises.

(Prior Code, § 96.18) (Ord. 2017-02, passed 6-7-2017)

§ 50.32 SEVERABILITY; PREEMPTION; APPLICATION TO EXISTING AGREEMENTS.

(A) (1) The provisions of this subchapter shall be interpreted to be consistent with applicable federal and state law and shall be interpreted, to the extent possible, to cover only matters not preempted by federal or state law.

(2) If any section, division, sentence, clause, phrase, term, provision, condition, covenant, or portion of this subchapter is, for any reason, declared or held to be invalid or unenforceable by any court of competent jurisdiction or superseded by state or federal legislation, rules, regulations, or decision, the remainder of this subchapter shall not be affected thereby but shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, division, sentence, clause, phrase, term, provision, condition, covenant, or portion of this subchapter shall be valid and enforceable to the fullest extent permitted by law. In the event any provision is preempted by federal or state laws, rules, or regulations, the provision shall be preempted only to the extent required by law, and any portion not preempted shall survive. If any federal or state law resulting in preemption is later repealed, rescinded, amended, or otherwise changed to end the preemption, such provision shall thereupon return to full force and effect and shall thereafter be binding without further action by the city.

(Prior Code, § 96.19)

(B) To the extent that this subchapter is not in conflict with and can be implemented consistent with existing franchise agreements, this subchapter shall apply to all existing franchise agreements granted to utility operators by the city.

(Prior Code, § 96.20)

(Ord. 2017-02, passed 6-7-2017)

SEWER AND WATER LINE EXTENSIONS**§ 50.45 MAINLINE EXTENSIONS AND STANDARDS.**

(A) In order that the city develops in an efficient and cost-effective manner and to assure reasonable service to all citizens, it shall be the policy of the city that when the owner of any property not abutting a water or sewer main requests water or sewer service, a mainline extension shall be required unless the city determines that it would not be in the city's interest to extend the main.

(Prior Code, § 53.01)

(B) Mainline extensions shall be made to city standards at the cost of the applicant. Where the city determines that it would be in the public's best interest to install a larger main than that which is necessary to serve the applicant, the city may pay the difference to install a larger main.

(Prior Code, § 53.03)

(Ord. 01-03, passed 1-3-2001)

§ 50.46 MINIMUM LINE SIZES.

The minimum size of any main so constructed shall be determined by the city. Unless otherwise stated, all main extensions shall conform to the minimum size as stated below:

(A) Water: six inches; and

(B) Sewer: eight inches.

(Prior Code, § 53.02) (Ord. 01-03, passed 1-3-2001)

§ 50.47 REIMBURSEMENT POLICY.

(A) Where a mainline installed under this policy can or will provide service to another property not owned by applicant, the city may provide a reimbursement agreement to pay the applicant for a share of the cost of the original extension. Such reimbursement shall be based on the proportionate benefits to each party to be determined at the time the extension is made.

(B) The city shall establish a fee for any connection to the new main installed under this policy and shall collect said fee from any future connection to the main so constructed. The cost of the connection shall be determined according to the apportioned benefits determined by the city.

(C) Fees received by the city for connections to the main shall be reimbursed to the owner(s) of land paying for the initial installation; provided, however, that the term for reimbursement shall run for a maximum period of ten years. Entitlement for reimbursement shall run with the land.

(D) At the expiration of the ten-year period, any connections to the extension which would have been due to the original applicant under the agreement will be retained by the city and deposited in the Reserve Fund.

(E) Fees collected for water main connections will be deposited in the Water System Repair and Replacement Fund, and fees collected for sewer main connections will be deposited in the Sewer System Repair and Replacement Fund.

(Prior Code, § 53.04) (Ord. 01-03, passed 1-3-2001)

CROSS-CONTROL CONNECTION

§ 50.60 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AIR GAP SEPARATION. The physical vertical separation between the free-flowing discharge and of a potable water supply pipeline and the open or non-pressure receiving vessel.

APPROVAL or ***APPROVED.*** Approved in writing.

ATMOSPHERIC VACUUM BREAKER. A device consisting of an air inlet valve, a check vent, and an air inlet part(s).

AUXILIARY WATER SUPPLY. Any supply of water used to augment the supply obtained from the public water system which service the premises in question.

BACKFLOW. The flow in the direction opposite to the normal flow caused by back siphonage or back pressure. Back siphonage is caused by negative or reduced pressure in the supply piping, and back pressure occurs when the potable supply piping is connected to a system or fixture which exceeds the operating pressure of the supply piping.

BACKFLOW PREVENTION ASSEMBLY. A backflow prevention device such as a pressure vacuum breaker, spill resistant pressure vacuum breaker, double check valve, or a reduced pressure principle assembly and the attached shut off valves on the inlet and outlet ends of the device assembled as a complete unit.

BACKFLOW PREVENTOR. An air gap, AVB, PVBA, SVBA, DCVA, or RPBA.

CERTIFIED BACKFLOW ASSEMBLY TESTER. A person who is certified by the Division to test backflow prevention assemblies.

CERTIFIED BACKFLOW INSPECTOR/ SPECIALIST. A person who is certified by the Division to administer cross-connection control program and conduct cross-connection surveys.

CITY. The City of Condon or the city's designee.

CITY WATER SYSTEMS. The potable water system of the City of Condon.

CROSS-CONNECTION. Any physical arrangement where a public water system is connected, directly or indirectly (actual or potential), with any other non-drinkable water system, used water systems, or auxiliary supply, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp coolers, air conditioner unit, fire protection system, or any other assembly which contains or may contain contaminated water, sewage, or other liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. Bypass arrangement, jumper connections, removable sections, swivel or change-over assemblies, or other temporary or permanent assemblies through which or because of which back flowing may occur are considered to be ***CROSS-CONNECTION.***

DIVISION. The Health Division of the Oregon Department of Human Resources.

DOUBLE CHECK VALVE ASSEMBLY (DCVA). An assembly of two independently acting check valves with shut off valves on each side of the check valves and test cocks for checking the water tightness of each check valve.

EXPANSION. The pressure created by heated water or fluid that is not given the room to expand.

OWNER. Any person owning a beneficial interest with right of possession in any property service by the municipal water system.

POTABLE WATER. Water which is safe for human consumption.

PRESSURE VACUUM BREAKER ASSEMBLY (PVBA). An assembly consisting of an independently-operating, internally-loaded check valve and an independently-operating loaded air inlet valve located on the discharge side of the check valves.

REDUCED PRESSURE BACKFLOW ASSEMBLY (RPBA). A device for preventing backflow which has two check valves, a differential relief valve located between two check valves, two shut off valves with one on the upstream side and the other on the downstream side of the check valves, and four test cocks for checking the water tightness of the check valve and the operation at the relief valve.

RESPONSIBLE PERSON. Any individual, corporation, association, firm, partnership, municipal, state or federal agency, or joint stock company and includes any receiver, special master, trustee, assignee, or other similar representative thereof.

SERVICE CONNECTION. The piping connection by means of which water is conveyed from a distribution main of a public water system to a user's property line or to the service meter where provided is under the jurisdiction of the water supplier.

SPILL-RESISTANT PRESSURE VACUUM BREAKER ASSEMBLY (SVBA). One type of pressure vacuum breaker assembly.
(Prior Code, § 54.01) (Ord. 03-03, passed 4-2-2003)

§ 50.61 RULES AND REGULATIONS.

(A) *Purpose.* The purpose of cross-connection prevention requirements is to protect the public water system from contamination and pollution.

(B) *When cross-connection prevention requirements apply.* All cross-connections must have backflow prevention assemblies in conformance with this section when any of the following situations exist:

- (1) If the nature and extent of any activity on the premises or the materials used in connection with any activity on the premises or materials stored on the premises could contaminate or pollute the drinking water supply in any way;
- (2) On the premises having any cross-connection defined in § 50.60;
- (3) Internal cross-connections that are not correctable or intricate plumbing arrangements which make it impractical to ascertain whether or not a cross-connection exists;
- (4) A repeated history of cross-connections being established or re-established;
- (5) Unduly restricted entry so that inspectors for cross-connections cannot be made with sufficient frequency or with sufficient notice to assure that cross-connections do not exist;
- (6) Materials of a toxic or hazardous nature being used such that if back siphonage should occur, a health hazard could result;
- (7) Failure to fill out and turn in the cross-connection survey form;
- (8) Fire sprinkler systems using non-potable piping;
- (9) All new commercial and/or industrial construction; or
- (10) Underground sprinkler systems.

(C) *Permits required for mobile units.* Any mobile apparatus which uses the city's system or water from any premises within the city's system must obtain a permit from the city.

(D) *Plumbing Code compliance.* All backflow assemblies must be installed and maintained in conformance with the state's Uniform Plumbing Code.

(E) *Installation requirements.* To ensure proper operation and accessibility of all backflow prevention assemblies, the following requirements shall apply to the installation of these assemblies.

(1) No part of the assembly shall be submerged in water or installed in a location subject to flooding.

(2) The assembly must be protected from freezing and other severe weather conditions.

(3) Assemblies must be installed at the point of delivery of the water supply before any branch in the line or on private property located just inside of the property line. Alternate locations must be approved by the city prior to installation.

(4) All assemblies shall be of a type and model approved by the Division and city and shall at least be commensurate with a degree of hazard that exists as determined by the city in accordance with O.A.R. Chapter 333-61-070, § 6.

(5) Plans for new construction must be approved by the city prior to installation of any assemblies.

(6) All backflow prevention assemblies shall be installed in accordance with O.A.R. Chapter 333-61-071, §§ 1 through 4.

(F) *Access to premises required.* Authorized employees of the city shall have access during reasonable hours to all parts of a premises and within the building to which water is supplied. However, if any owner or responsible person refuses access to a premises or to the interior of a structure for an inspection by a city cross-connection specialist, a reduced pressure principal assembly will be required to be installed at the service connection to that premises.

(G) *Testing of assemblies.* All assemblies subject to this subchapter must be tested by a certified backflow assembly tester immediately upon installation, after any repairs, or after being moved, relocated, or reinstalled at least annually or more frequently if required by the city.

(H) *Maintenance of assemblies.* The owner or responsible person will be responsible for maintaining the assemblies from freezing, flooding, and repairs.

(I) *Expansion.* The owner or responsible person will be responsible to eliminate the possibility of thermal expansion.

(Prior Code, § 54.02) (Ord. 03-03, passed 4-2-2003)

§ 50.62 CERTIFICATION REQUIRED.

Backflow specialist and testers within the city must be certified by the Division.
(Prior Code, § 54.03) (Ord. 03-03, passed 4-2-2003)

§ 50.63 RESPONSIBILITIES AND COST OF COMPLIANCE.

It is the responsibility of all property owners, responsible person(s), or renter(s) to abide by the conditions of this subchapter. In the event of any change to the plumbing system, it is the responsibility of the owner(s), responsible person(s), or renter(s) to notify the city. All costs associated with the purchase, installation, testing, replacement, maintenance, parts, and repairs of the backflow assembly are the financial responsibility of the owner(s) or responsible person(s).
(Prior Code, § 54.04) (Ord. 03-03, passed 4-2-2003)

§ 50.64 FIRE SYSTEMS.

An approved double check valve assembly shall be the minimum protection for fire sprinkler systems using piping material that is not approved for potable water use and/or which does not provide for periodic flow-through during each 24-hour period unless a variance has been issued in writing. A RPBA assembly must be installed if any solution other than the potable water can be introduced into the sprinkler system.
(Prior Code, § 54.05) (Ord. 03-03, passed 4-2-2003)

§ 50.65 ENFORCEMENT.

Failure on the part of any owner, responsible person, or renter to install maintain or conduct required testing or discontinue the use of any backflow assembly or to physically separate any backflow assembly is sufficient cause for the immediate discontinuance of the city water service to the premises.
(Prior Code, § 54.06) (Ord. 03-03, passed 4-2-2003)

§ 50.66 CONSTITUTIONALITY AND SAVINGS CLAUSE.

If any provision, section, sentence, clause or phrase of this subchapter or the application of same to any person or set of circumstances are, for any reason, held to be unconstitutional, void, invalid, or for any reason unenforceable, the validity of the remaining portions of this subchapter or its application to other persons or circumstances shall not be affected thereby. It is the intent of the City Council in adopting and the Mayor in approving this subchapter that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation.
(Prior Code, § 54.07) (Ord. 03-03, passed 4-2-2003)

§ 50.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person who violates or causes a violation of any provision of §§ 50.02 through 50.04 shall be punishable by a fine of up to \$1,000 per occurrence and termination of water service. Failure of any user of water service, storm water service, or wastewater services to pay a charge required by these sections shall subject the user to discontinuance of any or all such services. Unless specified otherwise, violations of these sections are declared civil violations and such violations may, in addition to or in lieu of other remedies or enforcement measures provided by state law or herein, be enforced under civil procedures.

(Prior Code, § 55.99)

(C) The following penalties shall apply to violations of §§ 50.15 through 50.32.

(1) The city shall give the utility operator written notice of any violations and provide a reasonable time, no less than 20 and no more than 40 days, for the utility operator to remedy the violations. If the Public Works Superintendent determines the utility operator is guilty of violating any of the provisions of §§ 50.15 through 50.32 or the license after the time to remedy has passed, the Public Works Superintendent shall consider the standards found in § 50.20(M)(2)(a) through (M)(2)(e) and fine the utility operator not less than \$100 nor more than \$1,000 for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.

(2) A determination made by the Public Works Superintendent is a quasi-judicial decision and is not appealable to the City Council. Appeals from any determination made by the Public Works Superintendent shall be solely and exclusively by writ of review to the County Circuit Court as provided in O.R.S. 34.010 through 34.100.

(3) Nothing in §§ 50.15 through 50.32 shall be construed as limiting any judicial or other remedy the city may have at law or in equity for enforcement of §§ 50.15 through 50.32.

(Prior Code, § 96.99)

(Ord. 04-05, passed 2-4-2004; Ord. 2017-02, passed 6-7-2017)

Statutory reference:

Related provisions, see O.R.S. 34.010 through 34.100

CHAPTER 51: WATER

Section

- 51.01 Definitions
- 51.02 Application requirements
- 51.03 Main extensions and improvements
- 51.04 Connections
- 51.05 Meters, control valves, and leaks
- 51.06 Interruptions and irrigation
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§ 51.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. The person, persons, firm, association, partnership, corporation, or entity whose application for service has been approved by the city.

CITY. The City of Condon, Oregon.

CUSTOMER. The person, persons, firm, association, partnership, corporation, or entity whose application for service has been approved by the city.

CUSTOMER LINE. The pipe, valves, and backflow preventer from the meter to the premises served.

MAINLINE. The pipe in the street, alley, or right-of-way which is owned and maintained by the city for the purpose of distributing water to customers and servicing fire hydrants.

MULTI-FAMILY. A building used or arranged for use as the home or abode of two or more families living independently of each other and doing their own cooking in the building. This includes flats, apartments, and townhouses.

PREMISES. A building and/or any parcel of land occupied by a family unit or business entity and used for residential, business, or commercial purposes.

SERVICE or SERVICE LINE. The pipe, valves, stops, and fittings from the main to, and including, the meter and meter box.

(Prior Code, § 50.01) (Ord. 2007-04, passed 3-7-2007)

§ 51.02 APPLICATION REQUIREMENTS.

(A) Application form.

(1) The owner and future tenant shall sign a joint application form provided by the city giving the date of application, location of premises to be served, the date service is to begin, purpose in which service to a lease will be used, mailing address of both parties, some form of picture identification of the renter or leaser, the size of the meter, and such other information as the city may require. In signing the application, the customer and owner agree to abide by the rules and regulations of the city.

(2) The application is merely a written request for services and does not bind the city to serve.

(B) Establishment of credit. The credit of the applicant will be deemed established when the applicant makes a cash deposit with the city to secure the payment of bills for service. The deposit shall be an amount to be established by city resolution.

(C) Deposits.

(1) At the time the deposit is given to the city, the applicant will be given a receipt for the same amount. The deposit is not to be considered as a payment on the account.

(2) If the applicant makes timely payments of all the water bills for a period of one year from the date of application, the deposit shall be refunded at that time.

(3) In the event the service is discontinued, the deposit will be applied to the closing bill and any amount in excess of the closing bill will be refunded.

(4) The city will not pay interest on any deposit.

(5) Deposit is required for each premises.

(D) Forfeiture of deposit. If an account becomes delinquent and it is necessary to turn off the service, the deposit shall be applied to the unpaid balance due. Water service will not be restored to the

premises or that customer until paid and a cash deposit replaced together with a connection fee as set by city resolution.

(E) *Owner responsibility.* For leased or rented premises where the tenant's account has become delinquent and the tenant vacates the premises without satisfying previous water service charges prior to future water service, the owner of such premises shall satisfy the outstanding water service charge. (Prior Code, § 50.02) (Ord. 2007-04, passed 3-7-2007) Penalty, see § 10.99

§ 51.03 MAIN EXTENSIONS AND IMPROVEMENTS.

(A) *Responsibility for payment.* The city shall pay for the cost of supply, pumping stations, storage facilities, and primary main for the general distribution of water within the city but shall not pay the cost of main extensions to service additional or existing customers' properties, tracts, or subdivisions.

(B) *Standards.* All water main extensions or improvements shall be made by the city or a contractor approved by the city and shall be constructed to the city's public works standards.

(C) *Location.*

(1) The city will approve water main extension only on rights-of-way, easements, or publicly owned property.

(2) Easements secured for main extensions shall be obtained in the name of the city along with all rights and title to the main extension.

(Prior Code, § 50.03) (Ord. 2007-04, passed 3-7-2007) Penalty, see § 10.99

§ 51.04 CONNECTIONS.

(A) *Separate service.*

(1) Except as authorized by the city, a separate service and meter to supply water service shall be required for each building residential unit or structure served.

(2) For the purpose of this section, trailer parks and multi-family residences shall constitute a single unit unless the city determines that separate services are required.

(B) *Service connection charge.*

(1) When an applicant files for service where no service previously existed or if the applicant is filing for a change in service size or location, the application will be assessed a charge to cover the cost to the city to install the service, as set by city resolution.

(2) Where the installation involves cutting, excavating, and/or the replacement of any paved surface, the customer shall be charged the actual cost of such cutting and repair in addition to other applicable charges and fees.

(C) *Service line location.*

(1) Service lines shall generally extend at right angles from the main to a point immediately inside the curb line or, where no curb exists, to a point designated by the city as close to property line as feasible.

(2) A service line crossing private property shall not be allowed unless special circumstances warrant and approval of the city is obtained.

(Prior Code, § 50.04) (Ord. 2007-04, passed 3-7-2007)

§ 51.05 METERS, CONTROL VALVES, AND LEAKS.

(A) All premises using water shall be metered.

(1) For ordinary metered consumption of water, a meter that is three-fourths inch by five-eighths inch will be furnished by the city. Where application is made for a larger meter, the city shall determine whether a meter of such size is required.

(2) The service connection and meter, whether located on public or private property, is the property of the city and the city reserves the right to have it repaired, maintained, or replaced.

(3) The customer is responsible for maintaining access to the meter free and clear of all shrubs, landscaping, and other materials. Any obstruction may be trimmed or removed by the city.

(4) No person shall open or close curb stops, meters, or fire hydrants except an employee of the city emergency service personnel, a contractor employed by the city to work on the system, or a licensed plumber with permission from the city.

(5) Should a customer wish to have their meter tested, the city will have such testing done, but should the meter tested be found accurate within 3% of true delivery, the customer shall pay the cost of testing plus freight. However, if the meter is found to under register in excess of 3%, testing shall be at the cost of the city.

(Prior Code, § 50.05)

(B) Customers shall install a suitable control valve as close to the meter box as practical, the operation of which will control the entire water supply from the service.

(Prior Code, § 50.06)

(C) Customers shall be responsible for the cost of all water lost from leakage in a customer line.
(Prior Code, § 50.07)
(Ord. 2007-04, passed 3-7-2007) Penalty, see § 10.99

§ 51.06 INTERRUPTIONS AND IRRIGATION.

(A) The city must interrupt service from time to time to repair mains, make extensions, repair valves, and to clean, maintain, and recondition reservoirs and storage tanks. The city shall not be responsible for any damages caused by such interruptions of service or fluctuations in pressure but shall, whenever feasible to do so, give customers advance notice whenever it knows that service is to be interrupted for any appreciable length of time. However, failure to give such notice shall in no manner cause the city to become liable for loss or damage caused by service interruption.
(Prior Code, § 50.08)

(B) The city may suspend the right to irrigate yards, lawns, gardens, trees, and flowers whenever, in the opinion of the city, it may be required for a public emergency.
(Prior Code, § 50.09)
(Ord. 2007-04, passed 3-7-2007)

§ 51.07 GROUNDING.

No electrical ground or device that may channel an electrical current to piping shall be attached to any piping or fixture directly or attached to the city system.
(Prior Code, § 50.11) (Ord. 2007-04, passed 3-7-2007) Penalty, see § 10.99

§ 51.08 MAINTENANCE OUTSIDE OF CITY LIMITS.

The owner shall maintain private water services outside of city limits from the main line where the service is connected. The city will maintain valves, setters, and meters inside the meter box regardless of the meter location. Failure to maintain the service line between the main line and the meter will result in disconnection at the main line.
(Prior Code, § 50.10) (Ord. 2009-01, passed 5-6-2009)

§ 51.09 INSPECTION OF PREMISES.

Any officer, agent, or employee of the city shall have free access, at all reasonable times, to all parts of buildings or premises supplied with water from the city's mains to read meters, to turn on or off through the service connection, to check for cross-connections, to check for compliance with codes, and for other reasonable cause.
(Prior Code, § 50.12) (Ord. 2007-04, passed 3-7-2007)

§ 51.10 DISCONTINUANCE OF SERVICE.

(A) *Written notice.* Each customer about to vacate any premises supplied with water service by the city shall give the city written notice of their intentions at least two days prior thereto specifying the date service is to be discontinued. Otherwise, customers will be responsible for all water supplied to such premises until the city receives notice of such removal.

(B) *Meter reading.* At the time specified by the customer that water service is to be discontinued, the meter will be read and a bill rendered, which is payable immediately. In no case will the bill be less than one-half of the monthly minimum as specified by city fee resolution.

(C) *Customer obligations.*

(1) The city may discontinue service if one or more of the following occur.

(a) A customer has failed or refused to allow city personnel to inspect plumbing, water and sewer lines, and appurtenances located upon the premises where water is being furnished.

(b) A customer account is past due as a result of non-payment of any charge due and owing.

(c) A customer owes a past due balance on another account that has not been satisfied.

(d) A customer has been convicted for a violation of water or sewer ordinances or rules or a violation of water restrictions.

(e) A customer fails to maintain a service line outside of the city limits.

(f) System capacity is no longer sufficient to provide adequate service.

(g) The city has discontinued its water utility or elected to discontinue service to a portion of its service area.

(2) The city may refuse to furnish water and may discontinue service to any premises where excessive demands by one customer will result in inadequate service to others.

(D) *Disconnection for late payment.*

(1) It is the policy of the city to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect that:

(a) All bills are due and payable on or before the date set forth on the bill; and

(b) If any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(c) Any customer disputing the correctness of his or her bill shall have a right to a hearing, at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(3) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge in the sum of \$20.

(Prior Code, § 50.13) (Ord. 2007-04, passed 3-7-2007; Ord. 2009-01, passed 5-6-2009)

§ 51.11 WATER CHARGES AND BILLING.

(A) *Water charges.*

(1) *Billed on the basis of meter reading.* Meters will be read, and customers will be billed on the basis of the meter reading. The city will keep an accurate account on its books of all meter readings and such account so kept shall be offered at all times, places, and courts as prima facie evidence of the use of water by the customer.

(2) *Failure to read meters.* In the event that it shall be impossible or impractical to read a meter on the regular reading date, water consumption shall be estimated from the previous month's reading.

(3) *More than one house.* Where water is supplied through one service to more than one house, the users may be required to provide separate service, or the water supply may be continued on condition that one person shall pay for all on the same service.

(Prior Code, § 50.14)

(B) *Billing.*

(1) All bills are due and payable upon receipt.

(2) Immediately after the tenth day of each month, all customers who have not paid in full the water rent as hereinbefore provided shall incur as interest an additional 1 % per month of the balance due.

(3) Whenever any water charge is not paid when due, the city may discontinue service by shutting off water service for nonpayment. Water shall not be returned to service until the customer pays their account balance in full and a connection fee as established by the city resolution. Upon receipt of these payments to the city, the customer's water service will be restored. Written notice for discontinuing water service for nonpayment of water charge shall be given to the customer by regular mail, and a notice shall be posted on the premises if the occupant is not the customer at least ten days in advance of the shut off. Requests for an informal conference with the City Administrator or his or her designee must be received no later than two days prior to the scheduled shut-off date.

(Prior Code, § 50.15)

(Ord. 2007-04, passed 3-7-2007; Ord. 2013-01, passed 4-3-2013)

§ 51.12 BULK WATER RATES.

(A) A special bulk water rate shall be charged to bulk users such as commercial spraying businesses, water for stock, contractors, or public entities.

(B) Bulk water users shall pay the rate established by resolution.

(C) Each bulk user shall obtain a permit from the city. To acquire a permit, the applicant's tankers shall be inspected by city public works personnel for cross-connection control compliance. The permit shall specify exactly the location of the hydrant to which connection is permitted along with a tally sheet to log consumption.

(D) For billing purposes, the permit holder shall submit the tally sheet to the city at the first of each month following usage in the past month.

(E) Failure of the bulk user to fulfill these conditions shall be justification for the city to cancel the permit.

(Prior Code, § 50.17) (Ord. 2007-04, passed 3-7-2007)

§ 51.13 RESTRICTIONS ON WATER USAGE.

(A) *Resale of water.* No consumer shall sell or collect water for use without first obtaining written permission from the city.

(Prior Code, § 50.16)

(B) *Restrictions, limitations, and compliance.*

(1) *Prohibited use of water.* Water will not be furnished to the premises where water is allowed to be wasted by being kept running at any time longer than necessary for its proper use. When such waste is found to exist, the water may be shut off from the premises.

(2) *Limitations on use.* The Public Works Superintendent shall have full power and authority at any time to declare that a shortage of water exists and to prescribe definite hours for use or non-use of water through hose or other sprinkling devices. Such regulations are to take effect immediately and are to be enforced by the Public Works Superintendent. Violation of these rules may be cause for turning off water.

(3) *Compliance with state Plumbing Code.* The customer's plumbing, including the service line and all plumbing piping fixtures and other appurtenances carrying or intending to carry water, sewer, or drainage, shall comply with the state's Plumbing Code.

(Prior Code, § 50.18)

(Ord. 2007-04, passed 3-7-2007) Penalty, see § 10.99

CHAPTER 52: SEWER

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GENERAL PROVISIONS

§ 52.01 DEFINITIONS.

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

BILLING AND ADMINISTRATIVE COSTS. The costs of maintaining account records, billing, and collection, account servicing, financial accounting, and the like.

BOD (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning five feet, or one and one-half meters, outside the inner face of the building wall.

BUILDING SEWER. The extension from the building drain to the connection with the public sewer service connection or other places of disposal.

CAPITAL COSTS. The costs of acquiring the treatment and collection facilities, costs for debt service, and insurance on facilities. These costs are incurred and ongoing independent of the operation of the system.

CITY. The City of Condon, Oregon, a local government agency of the state having jurisdiction within certain defined boundaries as now or hereafter constituted acting through the City Council or a committee, body, official, or person to whom the City Council shall have lawfully delegated the power to act for or on behalf of the city. Unless a particular committee, body, official, or person is specifically designated in these rules and regulations, wherever herein action by the city is explicitly required or implied it shall be understood to mean action by the City Administrator or Mayor of the city or his or her duly authorized representative.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

COMMERCIAL USER. Any user at a property which is used for commercial or business purposes which is not an **INDUSTRIAL USER**, or one whose effluent is characteristic of residential sanitary waste.

COOLING WATER. The water discharged from any use such as air conditioning, cooling, or refrigeration or to which the only pollutant added is heat.

CUSTOMER. The person who receives service from the system and is directly responsible for the user charges assessed for the service received. The **CUSTOMER**, if not the owner, is deemed to be the agent of the owner in receiving service from the system and does so with the knowledge and under the direction of the owner.

GARBAGE. Solid wastes from the domestic or commercial preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.

INDUSTRIAL USER. Any user generating industrial wastes.

INDUSTRIAL WASTE. The fluid wastes or solid wastes suspended in fluids, not characteristic of residential sanitary waste, discharged into the city's sanitary sewer from a manufacturing, processing, or assembly facility such as liquid chemicals, agricultural process wastes, mud, and the like.

INSPECTOR. The City of Condon's authorized deputy, agent, or representative.

MAINTENANCE. Preservation of functional integrity and efficiency of equipment and structures. This includes preventive maintenance, corrective maintenance, and replacement of equipment.

MAY. The act referred to is permissive.

NATURAL OUTLET. Any outlet into a water course, pond, ditch, lake, or other body of surface or groundwater.

OPERATING COSTS. The cost of operation and maintenance of the treatment and collection facilities.

OPERATION. Control of the unit processes and equipment that make up the collection and treatment works. This includes keeping management records, laboratory, process, safety and emergency operations, employment of attorneys and consultants, payment of court costs, and payment of any costs or fees reasonably associated with any of the above.

OPERATION AND MAINTENANCE. Activities required to ensure the dependable and economical function of collection and treatment works. Also see separate entries for **OPERATION** and **MAINTENANCE**.

OWNER. The owner of record of the property to which service is provided.

PERSON. Any individual, firm, company, association, society, corporation, or group. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by context.

pH. The logarithm base ten of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. 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, or 1.27 centimeters, in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

REPLACEMENT. Obtaining and installing equipment accessories or appurtenances that are necessary during the design or useful life, whichever is longer, of the collection and treatment works to maintain the capacity and performance for which such works were designed and constructed.

RESIDENTIAL USER. User of a single or multi-family dwelling.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface, and groundwater are not intentionally admitted.

SERVICE CONNECTION. The connection at the mainline where the building sewer is connected.

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments together with such ground, surface, and storm waters as may be present.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All city-owned facilities for collecting, pumping, treating, and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

SHALL. The act referred to is mandatory.

SLUG. Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds, during a minimum 15-minute period, five times the average 24-hour concentration or flow during normal operation.

***STORM DRAIN* or *STORM SEWER*.** A sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

***SUSPENDED SOLIDS*.** Solids that either float on the surface or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

***USER*.** The owner of the property using any part of the public sewer treatment works of the city including developed properties where a sewer-service tap is available to the property whether or not the property is occupied.

***USER CHARGE*.** The charges for service billed to users, or their agents, of the public treatment works shall, at a minimum, cover the cost of administration, acquisition, debt service, operation, and maintenance of such works as provided under § 204(b)(1)(A) of the Clean Water Act.

***WATERCOURSE*.** A channel in which a flow of water occurs either continuously or intermittently. (Prior Code, § 51.01) (Ord. 114B, passed 6-7-1995; Ord. 06-04, passed 4-5-2006)

§ 52.02 PUBLIC SEWERS REQUIRED.

The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city shall, at his or her expense, install suitable toilet facilities therein and connect such facilities directly with the proper public sewer, in accordance with the provisions of this chapter, within 90 days after date of official notice to do so provided that said public sewer is accessible and within 200 feet of the property line. There will be a \$200 minimum late fee charged after 90 days from the date of official notice for failure to connect.

(Prior Code, § 51.02) (Ord. 114B, passed 6-7-1995) Penalty, see § 52.99

§ 52.03 PRIVATE SEWAGE DISPOSAL.

(A) *Connection to private system.* When a public sanitary or combined sewer is not available under the provisions of § 52.02, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

(B) *Compliance with state recommendations.* The type capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the state's Department of Environmental Quality. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(C) *Operation and maintenance.* The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the city.

(D) *Sewer connections*. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 52.02, a direct connection shall be made to the public sewer within 90 days in compliance with this chapter, and septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned, cleaned of sludge, and filled with clean bank-run gravel or dirt.

(Prior Code, § 51.03) (Ord. 114B, passed 6-7-1995) Penalty, see § 52.99

§ 52.04 DAMAGING OR TAMPERING WITH SEWER SYSTEM EQUIPMENT.

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

(Prior Code, § 51.04) (Ord. 114B, passed 6-7-1995) Penalty, see § 52.99

§ 52.05 SAMPLING AND TESTING.

(A) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examinations of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property.

(B) The particular analyses will determine whether a 24-hour composite of all outfall of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfall, whereas pHs are determined from periodic grab samples.

(Prior Code, § 51.70) (Ord. 114B, passed 6-7-1995)

§ 52.06 INSPECTOR RIGHT OF ENTRY.

(A) The Inspector and duly authorized employees and agents of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurements, sampling, and testing in accordance with the provisions of this chapter. The Inspector or the Inspector's representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or the industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(B) The Inspector and duly authorized employees and agents of the city bearing proper credentials and 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, measurements, sampling, or repair. All entry and subsequent work, if any, on the easements shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Prior Code, § 51.71) (Ord. 114B, passed 6-7-1995)

§ 52.07 SAFETY RULES AND INDEMNIFICATION.

While performing the necessary work on private properties referred to in § 52.06(A), the Inspector or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the owner, and the owner shall be held harmless for injury or death to the city employees, and the city shall indemnify the owner 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 owner and growing out of the gauging and sampling operation except as such may be caused by negligence or failure of the owner to maintain safe conditions as required in § 52.44(B). (Prior Code, § 51.72) (Ord. 114B, passed 6-7-1995)

§ 52.08 SPECIAL ARRANGEMENTS AND ADDITIONAL REQUIREMENTS.

(A) *Special arrangements.* No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment and subject to payment therefor by the industrial concern. (Prior Code, § 51.73)

(B) *Additional requirements.* No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the health officer or Inspector. (Prior Code, § 51.74) (Ord. 114B, passed 6-7-1995)

CONNECTIONS AND PERMITS

§ 52.20 PERMIT REQUIRED; APPLICATION

(A) No unauthorized persons 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 City Hall.

(B) There shall be two classes of building sewer permits:

- (1) Residential and commercial service; and
- (2) Service to establishments producing industrial wastes.

(C) In case of either permit described in division (B) above, the owner or the owner's agent shall make application on a special 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 Inspector. A permit and inspection fee for a residential or commercial building sewer permit and for any industrial building sewer permit may be charged by the Inspector at the time the application is filed.

(Prior Code, § 51.15) (Ord. 114B, passed 6-7-1995; Ord. 06-04, passed 4-5-2006) Penalty, see § 52.99

§ 52.21 COSTS TO BE BORNE BY OWNER.

(A) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner according to the provisions of §§ 50.45 through 50.47. The owner shall indemnify the city for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(B) Before opening any street, alley, or public way, the City Recorder shall require a cash deposit sufficient to cover the cost of back filling the trench and restoring the street, alley, or other public way to its original condition.

(C) A permit may be issued by the City Recorder for the opening of a street, alley, or public way upon payment of the cash deposit, but the Inspector may, in his or her sole judgment, determine the manner in which the excavation is to be made.

(Prior Code, § 51.16) (Ord. 114B, passed 6-7-1995; Ord. 98-2, passed 7-7-1998; Ord. 01-03, passed 1-3-2001)

§ 52.22 SEPARATE BUILDING SEWERS; OLD BUILDING SEWERS.

(A) A separate and independent building sewer shall be provided for every building; however, where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(B) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Inspector, to meet all requirements of this chapter.

(C) The city shall not be liable for cleaning, maintenance, upkeep, or repair to any building sewer to the mainline, whether in public right-of-way or not, unless the necessity thereof is clearly attributable to an action of the city.

(Prior Code, § 51.17) (Ord. 114B, passed 6-7-1995; Ord. 06-04, passed 4-5-2006)

§ 52.23 SPECIFICATIONS FOR SEWERS AND CONNECTIONS.

(A) *Specifications for building sewers.* 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 Building and Plumbing Code or other applicable rules and regulations of the state.

(B) *Elevation and lifting.* Whenever possible, the building sewer shall be brought to the building at the 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 a means approved by the Inspector and discharged to the mainline. Private sewer lift stations shall be installed and maintained by the property owner.

(C) *Specifications for connections.* The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Codes or other applicable rules and regulations of the state. All such connections shall be made gas-tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Inspector before installation.

(Prior Code, § 51.18) (Ord. 114B, passed 6-7-1995; Ord. 06-04, passed 4-5-2006) Penalty, see § 52.99

§ 52.24 INSPECTION OF WORK.

(A) All work done in connection with any permit and in construction or installation of any sewer connection shall be done under the inspection and subject to the approval of the Inspector and shall be inspected and approved by the Inspector before the same is covered.

(B) Any sewer that is covered before it is inspected and approved shall be reopened at the sole expense of the applicant in such manner as to be sufficient to permit a thorough inspection of the work.

(C) Any work found to be defective or not in conformity with provisions of this subchapter shall be removed and replaced in a manner and with materials as herein specified.

(Prior Code, § 51.19) (Ord. 114B, passed 6-7-1995; Ord. 06-04, passed 4-5-2006) Penalty, see § 52.99

§ 52.25 PERSONS PERMITTED TO DO WORK; OWNER'S PERMIT.

(A) It shall be unlawful for any person other than a contractor, licensed by the state as such, or employee of the city to make any opening in any sanitary sewer owned and operated by the city or to connect any private sewer therewith.

(B) Nothing in this subchapter shall be construed as prohibiting a bona fide owner or a member of the owner's family from personally installing or repairing the sewer connected to the owner's building and located upon the owner's premises provided such building is a residence and is used for the occupancy of the owner and the owner's family as a dwelling place and provided further that any such

installation or repair work shall meet the requirements of this subchapter in all respects and shall pass the inspection of the Inspector or the authorized agents of the city.

(Prior Code, § 51.20) (Ord. 114B, passed 6-7-1995; Ord. 06-04, passed 4-5-2006) Penalty, see § 52.99

§ 52.26 EXCAVATION AND RESTORATION.

All excavations for building sewer installations shall be adequately guarded 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.

(Prior Code, § 51.21) (Ord. 114B, passed 6-7-1995) Penalty, see § 52.99

SEWER USE AND REGULATIONS

§ 52.40 DISCHARGING STORM WATER AND OTHER DRAINAGE.

(A) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters into any sanitary sewer.

(B) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Inspector. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Inspector and state's Department of Environmental Quality permits as required, to a storm sewer or combined sewer or natural outlet.

(Prior Code, § 51.35) (Ord. 114B, passed 6-7-1995) Penalty, see § 52.99

§ 52.41 PROHIBITED DISCHARGES AND DISPOSALS.

(A) *Unlawful discharges.*

(1) *Unsanitary disposal of waste.* It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable wastes.

(2) *Unlawful discharge of sewage.* It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters except where suitable treatment has been provided in accordance with other provisions of this chapter.

(3) *Privies, septic tanks, and the like.* Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage on any premises located within 200 feet of an accessible sewer line.

(Prior Code, § 51.02)

(B) *Discharges or disposals in sewage.* No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, motor oil, or other flammable or explosive liquid, solid, or gas;

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, to create a public nuisance, or to create any hazard in the receiving waters of the sewage treatment plant including, but not limited to, cyanides in excess of two mg/l as CH in the wastes as discharged to the public sewer;

(3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works; and

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails, and paper dishes, cups, milk containers, and the like either whole or ground by any means including, but not limited to, garbage disposals.

(Prior Code, § 51.36)

(Ord. 114B, passed 6-7-1995) Penalty, see § 52.99

§ 52.42 DISCHARGE OF SPECIAL WASTE; POWERS OF INSPECTOR.

(A) *Discharge of special waste.* No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Inspector that such wastes can harm either the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; can otherwise endanger life, limb, or public property; or constitute a nuisance. In forming his or her opinion, consideration will be given to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than 150°F or 65°C;

(2) Any water or waste containing fats, wax, grease, or oils emulsified or not in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150°F, or 0 and 65°C;

(3) Any garbage that has not been properly shredded, as defined in § 52.01;

(4) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions whether neutralized or not;

(5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Inspector for such materials;

(6) Any waters or wastes containing phenols or other taste or odor producing substances in such concentrations exceeding limits which may be established by the Inspector as necessary after treatment of the composite sewage to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters;

(7) Any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the Inspector in compliance with the applicable state or federal regulations;

(8) Materials which exert or cause:

(a) Unusual concentrations of inert suspended solids such as, but not limited to, fullers earth, lime slurries, and lime residues or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate;

(b) Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions;

(c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works; and/or

(d) Unusual volume of flow or concentration of wastes constituting slugs as defined in § 52.01.

(9) Any waters or wastes having a pH in excess of 9.5; and

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(B) *Powers of Inspector.* If any waters or wastes are discharged or are proposed to be discharged to the public sewers which waters contain the substances or possess the characteristics enumerated in division (A) above and which, in the judgment of the Inspector, may have deleterious effects upon the sewage works, processes, equipment, or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the Inspector may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing fees or sewer charges under the provisions of § 52.08(A).

(C) *Inspector permission.* If the Inspector permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Inspector and subject to the requirements of all applicable codes, ordinances, and laws.
(Prior Code, § 51.37) (Ord. 114B, passed 6-7-1995)

§ 52.43 INTERCEPTORS.

(A) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Inspector, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand, or other harmful ingredients; such interceptors shall not be required for private living quarters or dwelling units.

(B) All interceptors shall be of a type and capacity approved by the Inspector and shall be located as to be readily and easily accessible for cleaning and inspection.
(Prior Code, § 51.38) (Ord. 114B, passed 6-7-1995) Penalty, see § 52.99

§ 52.44 PRETREATMENT FACILITIES; CONTROL MANHOLES.

(A) *Maintenance by owner.* Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

(B) *Control manholes.* When required by the Inspector, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes.

(1) Such manhole, when required, shall be in accordance with plans approved by the Inspector.

(2) The manhole shall be installed by the owner at the owner's expense and shall be maintained by the owner so as to be safe and accessible at all times.

(Prior Code, § 51.39) (Ord. 114B, passed 6-7-1995) Penalty, see § 52.99

FEES AND CHARGES

§ 52.55 USER CHARGE SYSTEM.

(A) User charges shall be billed to all customers of the public sewer treatment works. Such charges shall cover the cost of operation and maintenance, replacement, debt service, and administrative costs of such treatment works. The user charge system shall distribute these costs in proportion to each customer's contribution to the expenses of billing and administration, operation and maintenance, and capital costs of the treatment works. Each customer shall be notified on not less than an annual basis, in conjunction with a regular bill, of their user charges.

(B) The City Council shall, by resolution, establish rates, hook-up fees, and other assessments it deems necessary for the use of the sewer.

(C) The residential user charges shall be based on 1R Unit.

(D) The commercial user charges shall be based on the unit method using the average water usage from November through March, typically low usage months, except for those commercial accounts that do not have usage from November through March.

<i>Water Usage Per Month</i>		
<i>R Unit</i>	<i>Minimum Usage</i>	<i>Maximum Usage</i>
1R	0	6,318 gallons
2R	6,319 gallons	12,636 gallons
3R	12,637 gallons	18,954 gallons
4R	18,955 gallons	25,272 gallons
5R	25,273 gallons	31,590 gallons
6R	31,591 gallons	37,908 gallons
7R	37,909 gallons	44,226 gallons
8R	44,227 gallons	50,544 gallons

<i>Water Usage Per Month</i>		
<i>R Unit</i>	<i>Minimum Usage</i>	<i>Maximum Usage</i>
9R	50,545 gallons	56,862 gallons
10R	56,863 gallons	63,810+ gallons

(E) The user charges and other system charges for special cases shall be set by resolution of the City Council on a yearly basis. These rates shall be set according to the requirements of division (A) above.

(F) A portion of each sewer user charge shall be dedicated to the Sewer Reserve Fund for replacement of equipment, improvements and other capital costs. The portion to be dedicated shall be set by resolution of the City Council.

(Prior Code, § 51.50) (Ord. 115B passed 7-5-1995; Ord. 96-6, passed 6-12-1996)

§ 52.56 APPEALS.

Should any user believe that he or she has been incorrectly assigned a number of units or classification, that user may apply for a review of his or her user charge as provided in § 52.55. Appeal of any charges billed by the city shall be made in writing to the City Recorder within 15 days of the billing of such charges. The City Recorder shall respond in writing within five working days of receipt of the appeal. If the user wishes to appeal further, the user shall request in writing that the City Recorder place his or her specific appeal on the next regularly scheduled City Council meeting. The decision of the City Council shall be final.

(Prior Code, § 51.51) (Ord. 114B, passed 6-7-1995)

§ 52.57 WHEN CHARGES BEGIN.

(A) The sewer user charges for all occupied property shall begin 15 days after the sewer service becomes available or the day connection is made to the public sewer, whichever occurs first.

(B) The sewer user charge for all unoccupied property shall begin within 15 days after the property is ready for occupancy.

(C) The property shall be treated as occupied on the first day said property is ready for occupancy while the sewer service is available. Once the sewer user charge has commenced, no credit shall be given for vacancy unless it can be demonstrated that water service to that property from any and all sources has been discontinued, at which time the user charge shall cease.

(D) The regular user charge shall be reinstated as soon as water service to that property from any source has begun.

(E) If the date upon which the user charge is commenced or altered does not fall on the first day of a billing period, the rates shall be appropriately prorated.
(Prior Code, § 51.52) (Ord. 114B, passed 6-7-1995)

§ 52.58 BILLING PROCEDURES.

(A) The customer of the sewer system shall be billed monthly for services in accordance with the rate schedule provisions of this chapter and set by the required rate resolution.

(B) Sewer user charges shall be computed as provided in § 52.55 and shall be due and payable to the city, by the customer, no later the tenth day of the month after the date of billing. All collections of sewer user charges shall be made by the City Recorder.

(C) Bills for sewer user charges will be mailed to the address specified on the application for service unless or until a new address of the owner of the property or customer is reported to the City Recorder's office.
(Prior Code, § 51.55) (Ord. 114B, passed 6-7-1995)

§ 52.59 RESPONSIBILITY FOR PAYMENT.

(A) The person who owns the premises served by the sewer system shall be the user and is ultimately responsible for payment of the sewer charge for that property notwithstanding the fact that the property may be occupied by a tenant or customer who is not the owner who may be billed by the city and required by the owner to pay the charges.

(B) Change in ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these charges and/or penalties.
(Prior Code, § 51.54) (Ord. 114B, passed 6-7-1995) Penalty, see § 52.99

§ 52.60 DELINQUENCY AND TERMINATION PROVISIONS.

(A) The city finds user charges, fees, assessments, and penalties established by this subchapter are for services rendered and/or incurred charges of the owner of the property or his or her agent, and are therefore not subject to the property tax limitations of Article XI, Section 11b of the state's Constitution. Sewer user charges levied in accordance with this subchapter shall be a debt due to the city for service rendered. If this debt is not paid by the customer within five working days of the date of the disconnection notice, it shall be deemed delinquent and may be recovered by civil action in the name of the city against the customer or the property owner or both. This civil action of the city may include any remedy allowed by law.

(B) (1) Monthly interest shall accrue on all accounts from the date of delinquency. In addition, a penalty shall be assessed on the date of delinquency which shall be added to the account and shall accrue interest in the same manner as all other delinquent charges.

(2) The rate of interest and the amount of penalty is to be set by City Council resolution.

(C) Sewer service terminated due to delinquency in payment shall not be restored until all charges including interest accrued and the expense of removal, closing, and restoration shall have been paid in full.

(Prior Code, § 51.56) (Ord. 114B, passed 6-7-1995) Penalty, see § 52.99

§ 52.61 DISCONNECTION AT USER REQUEST.

A user, at his or her expense, may have the sewer line disconnected from the system to avoid user charges. However, city ordinance requires all sanitary sewage to be disposed of into the city sewer system. Therefore, any property disconnected from the system cannot be occupied or obtain water service without evidence that no sewage is being produced at the property.

(Prior Code, § 51.53) (Ord. 114B, passed 6-7-1995) Penalty, see § 52.99

§ 52.62 DEPOSIT AND USE OF FUNDS.

(A) The City Recorder is hereby directed to deposit into the Sewer Fund and Sewer Reserve Fund all of the gross revenues received from charges, rates, and penalties collected for the use of the sewer system as herein provided.

(B) The revenues thus deposited in the Sewer Fund and Sewer Reserve Fund shall be used exclusively for the procurement, operation, maintenance, and repair of the sewer system; administration costs; expenses for collection of charges imposed by this subchapter and payments of the principal and interest on any debts of the sewer system of the city; and/or reserved for the future expenditure of the enumerated expenses.

(Prior Code, § 51.57) (Ord. 114B, passed 6-7-1995)

§ 52.99 PENALTY.

(A) Any person found to be violating any provision of this chapter, except § 52.04, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. No provision of this statute prohibits state and federal prosecution for the introduction of toxic waste into the system in addition to city fines and fees.

(B) Any person who shall continue any violation beyond the time limit provided for in division (A) above shall be guilty of an offense and, on conviction thereof, shall be fined as provided in § 10.99.

(C) 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.
(Prior Code, § 51.75) (Ord. 114B, passed 6-7-1995)

CHAPTER 53: GARBAGE AND REFUSE

Section

- 53.01 Definitions
- 53.02 Garbage containers and collection
- 53.03 Garbage hauling vehicles
- 53.04 Garbage accumulation and disposal
- 53.05 Burning waste; incinerator standards

§ 53.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COLLECTING GARBAGE. The collection of garbage, waste, refuse, or rubbish where compensation is paid to such collector or collecting agency either in cash or by the furnishing and delivering to such collector of anything of value in payment for such service.

GARBAGE. All classes of putrefactive or easily decomposable animal or vegetable matter and includes kitchen refuse of residences, restaurants, hotels, and places where food is handled or prepared for human consumption or tin cans or waste or offal from fish, poultry, meat, fruit, and all vegetable matter and all organic substances of whatever kind or nature unfit for human consumption that are subject to quick or immediate decay and that may attract flies or rodents.

HOUSEHOLDER. The head of the family residing in a residence, whether such person is the owner or lessee of the premises, and who shall be responsible for the conduct of the same.

INDESTRUCTIBLE REFUSE. Those substances including glass, chinaware, and metals which are indestructible and cannot be burned. This shall also include ***INDESTRUCTIBLE REFUSE*** offensive or obnoxious to the health and welfare of the inhabitants of the city or ***INDESTRUCTIBLE REFUSE*** repugnant to or creating a hazard to or having a detrimental effect on the property of another person or to the community.

RUBBISH. All such material and waste coming from residences and places of business that may be destructible or partly destructible such as grass, weeds, brush, and boxes except when used for purposes of compost.

WASTE. Plastic, rubber products, polystyrene plastic (Styrofoam), and disposable diapers; wire insulation; automobile parts and asphalt; petroleum products and petroleum treated materials; animal remains or animal or vegetable matter resulting from the preparation, cooking, or service of food; and chemically treated lumber

(Prior Code, § 52.01) (Ord. 97-1, passed 3-5-1997; Ord. 99-11, passed 5-5-1999; Ord. 99-13, passed 6-2-1999)

§ 53.02 GARBAGE CONTAINERS AND COLLECTION.

In order to facilitate the collection and disposal of garbage, waste, and indestructible refuse, all garbage, waste and indestructible refuse, as defined in § 53.01 above, shall be deposited or transported to the transfer station:

(A) In watertight metal or plastic cans, tapered, with a 30-gallon maximum; or

(B) In burning barrels and shall be collected or transported at least once a month or when full.

(Prior Code, § 52.02) (Ord. 97-1, passed 3-5-1997; Ord. 99-11, passed 5-5-1999) Penalty, see § 10.99

§ 53.03 GARBAGE HAULING VEHICLES.

It shall be unlawful for any person to haul, transport, or convey garbage, waste, rubbish, or refuse by truck, automobile or wagon, or trailer over and upon any street, alley, or thoroughfare in the city unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping therefrom.

(Prior Code, § 52.03) (Ord. 6-B, passed 11-15-1967) Penalty, see § 10.99

§ 53.04 GARBAGE ACCUMULATION AND DISPOSAL.

(A) *Unlawful deposits, accumulations, and disposals.*

(1) *Depositing or accumulating wastes.* It shall be unlawful to cast or leave or keep in or adjoining any street, alley, lane, square, or public place or in any yard, block, or premises within the limits of the city any garbage, waste, indestructible refuse, decayed or decaying substances, litter, offal, body or bodies or carcasses of dead animals, or filth of any kind.

(2) *Disposing only at city transfer station.* It shall be unlawful to cast or leave or keep in or adjoining any street, alley, lane, square, or public place or within the public lobby or waiting room or rooms of any public building within any yard, block, or premises within the city limits any garbage, waste, indestructible refuse, decayed or decaying substances, litter, body or carcass of a dead animal, or filth of any kind except at the tract of land known as the City Transfer Station.

(Prior Code, § 52.04)

(B) *Accumulation*. It shall be unlawful for any person within the city to permit the accumulation of garbage, waste, rubbish, or refuse, either subject to decay or indestructible, and all such persons are hereby required to make prompt and sanitary disposal of the garbage, waste, rubbish, and refuse of every kind, character, and nature as herein provided.

(Prior Code, § 52.05)

(C) *Disposal on vacant lots*. It shall be unlawful for any person within the city to dump or allow to accumulate any garbage, waste, rubbish, or indestructible refuse on vacant lots within the city.

(Prior Code, § 52.06)

(Ord. 2-A, passed 2-4-1959; Ord. 97-1, passed 3-5-1997; Ord. 99-11, passed 5-5-1999) Penalty, see § 10.99

§ 53.05 BURNING WASTE; INCINERATOR STANDARDS.

(A) The burning of waste and garbage at any time is prohibited within the city.

(B) All incinerators located within the city shall meet the following requirements:

(1) Sound construction of noncombustible material and with adequate ventilation holes to provide for proper combustion;

(2) Container capacity not exceeding 300 gallons;

(3) Covered with a spark arrester or screen;

(4) Located on a noncombustible surface at least ten feet from combustible materials; and

(5) Accumulated afterburn material or ashes not to exceed one third of the capacity of the container.

(Prior Code, § 52.07) (Ord. 99-11, passed 5-5-1999) Penalty, see § 10.99

