

Title 13

PUBLIC SERVICE AND UTILITIES

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Chapter 13.10**GARBAGE COLLECTION**

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13.10.010 Definitions.

A. The word “garbage,” when used in this chapter shall, for the purposes hereof, mean all putrescible waste, except sewage and body waste, including vegetable and animal waste, the carcasses of dead animals, rubbish, trash, debris, ashes, tin cans, swill and waste matter generally and shall embrace articles and things ordinarily and customarily hauled off and dumped for the purpose of promoting the cleanliness and health of the city.

B. The words “person,” “firm” or “corporation” shall, in addition to their ordinary usage and meaning, mean any unit, group, association or entity under which business is transacted. [Ord. 141 § 1, 1956.]

13.10.020 Regulation by council.

The regulation of the disposal and hauling of garbage in the city of Philomath shall be under the supervision of the city council. [Ord. 141 § 2, 1956.]

13.10.030 Containers required.

It shall be unlawful for any person, firm or corporation in possession, charge, or in control of any dwelling, apartment house, trailer camp, fraternity, restaurant, place of business or manufacturing establishment where garbage is created or accumulated to fail at all times to keep portable cans or containers of standard type and construction, and to deposit said garbage therein; provided however, that stiff paper products or wooden waste matter

may remain outside of cans or containers if neatly and orderly stored. [Ord. 141 § 3, 1956.]

13.10.040 License required to haul garbage.

It shall be unlawful for any person, firm or corporation in the city of Philomath to haul garbage upon the streets and public ways of said city without first having procured a license as hereinafter provided, except as provided in PMC 13.10.090. [Ord. 141 § 4, 1956.]

13.10.050 License application and fee.

Any person, firm or corporation desiring to engage in the business of hauling garbage upon the streets of the city of Philomath shall first make application to the city recorder for a license and shall tender with such application a sum to be set by resolution of the city council for the annual fee for each calendar year or portion thereof, payable in advance; and the city recorder shall thereupon issue to such person, firm or corporation a license to haul garbage in the city of Philomath, which license shall continue in force until expiration thereof; provided, the same shall not have been suspended or revoked by the city council for non-compliance with the laws, ordinances and orders of said city. [Ord. 628 § 4, 1994; Ord. 141 § 5, 1956.]

13.10.060 License conditions.

The securing of a license by an applicant shall in itself constitute an agreement that such applicant will haul garbage for any person in the city of Philomath making application for such service upon payment, or arrangements being made for payment, of compensation therefor as hereinafter provided, it being the intention of this section to make it incumbent upon all garbage haulers qualifying by the taking out of a license to respond to calls from any person in the city of Philomath desiring the applicant’s service, and performing the service requested within a reasonable time, and that failure on the part of such applicant to so call and perform the service requested shall be deemed a violation of this chapter. [Ord. 141 § 6, 1956.]

13.10.070 Rates.

The rates and compensation for the service rendered by any licensed garbage hauler shall be reasonable and uniform and shall not be in excess of a schedule of charges and compensation to be

adopted from time to time by the common council of the city of Philomath. [Ord. 141 § 7, 1956.]

13.10.080 Accumulation of garbage prohibited.

All persons, firms or corporations in the city of Philomath are hereby required to dispose of all perishable garbage before the same shall have become offensive and to dispose of all nonperishable garbage promptly and not permit the same to accumulate on or about premises. [Ord. 141 § 8, 1956.]

13.10.090 Exception to license requirement.

Any person, firm or corporation may transport garbage produced by himself or itself upon the streets of the city of Philomath without procuring a license therefor; provided, that such garbage must be hauled in such manner as to prevent leakage or litter upon the streets. [Ord. 141 § 9, 1956.]

13.10.100 Manner of hauling garbage.

It shall be unlawful for any licensed garbage hauler or person transporting garbage produced by himself or itself, except in a watertight and drip proof vehicle; provided however, that nonliquids and innocuous substances and garbage may be conveyed in suitable conveyance with provision against litter by covering. [Ord. 141 § 10, 1956.]

13.10.110 Provisions not exclusive.

The powers and duties herein granted for the suspension or revocation of licenses issued hereunder shall not be exclusive and shall not preclude the filing of complaint or complaints and subsequent prosecution thereunder by any person for any violation of this chapter. [Ord. 141 § 11, 1956.]

13.10.120 Penalty.

Any person, firm or corporation violating any of the terms of this chapter shall, upon conviction thereof in the municipal court or upon a plea of guilty before such court, be subject to a fine not exceeding \$200.00. [Ord. 141 § 12, 1956.]

Chapter 13.20

SEWER SYSTEM

Sections:

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13.20.010 Companion ordinance.

This chapter is a companion ordinance to Chapter 14.15 PMC.

A. The city council has adopted Chapter 14.15 PMC requiring new development to pay system development charges. PMC 14.15.050(C) requires adoption of an SDC methodology by ordinance.

B. It has been determined that the existing sanitary sewer master plan and methodology for sanitary sewer development charges needs to be updated to reflect current and future needs of the city sanitary sewer system. The Philomath city council therefore adopts the "Capital Improvement Plan and Methodology for Sanitary Sewer SDCs," attached to the ordinance codified in this section. [Ord. 725 §§ 1, 2, 2004; Ord. 624 § 1, 1994.]

13.20.020 Definition of terms.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

“Applicant” means a person, corporation, association or agency applying for sewer service.

“BOD (biochemical oxygen demand)” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Celsius, expressed in milligrams per liter.

“Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes within or adjoining the building or structures, and conveys the same to the building sanitary sewer.

“Building sanitary sewer” means that part of the horizontal piping of a wastewater drainage system beginning five feet or more from any building or structure and which receives the discharge of the building drain and conveys it to a public sewer, private sewer, individual sewage disposal system or other point of disposal.

“Building storm sewer” means that part of the piping of a stormwater drainage system which begins at the connection to the building storm drain at a point five feet outside the established line of the building or structure and conveys stormwater, surface water, and other unpolluted water to the public storm sewer, street, or other point of disposal.

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

“City engineer” shall be the city’s duly authorized agent as designated by the city manager.

“Collection system” means facilities maintained by the city of Philomath for collecting, pumping, conveying and controlling wastewater.

“Combined sewer” means a sewer that is designed as both a sanitary sewer and a storm sewer.

“Commercial service/user” means all buildings or premises used for any purpose other than a dwelling unit, having a sewage discharge of a kind, type and volume similar to a single-family dwelling unit or multi-unit residential structure, but not an industrial waste contributor.

“Council” means the city council of the city of Philomath.

“Customer” means a property owner of record, agent of the owner, or tenant who receives service from the city and is responsible for payment of charges/fees.

Director. See “Public works director.”

“Domestic sewage” means wastewater of the type commonly introduced into a treatment works by residential users.

“Dwelling unit” includes each single-family dwelling unit used for human habitation.

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

“Grab sample” means a wastewater sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

“Industrial user” means any customer who discharges industrial wastewaters directly or indirectly into the city sewer system or discharges a significantly larger volume of wastewater than a single-family residence as determined by the city.

“Industrial wastewater” means any nondomestic liquid, gaseous substance or semisolid from any producing, manufacturing business or trade, or processing operation of whatever nature (as distinct from sanitary sewage), and the contents of chemical toilets, septic tanks, and waste holding tanks.

“Infiltration” means water that enters the sewerage system from the surrounding soil. Although generally limited to sewers laid below the normal groundwater level, infiltration also occurs as a result of rain or irrigation water soaking into the ground and entering sewers with defective pipes or joints.

“Inflow” means stormwater runoff that enters the sewerage system only during or immediately after rainfall.

“Lateral sewer” means any side lateral off a sewer main line which is in the public right-of-way or easement, operated and maintained by the city, and to which a building sewer connects or may connect.

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

“Operation and maintenance” means activities required to assure the dependable and economical function of treatment works.

1. “Operation” means control of the unit processes and equipment which make up the treatment records, laboratory control, process control, safety and emergency operation planning.

2. “Maintenance” means preservation of functional integrity and efficiency of equipment and structures. This includes preventive maintenance, corrective maintenance, and replacement of equipment.

“Person” means any individual, company, enterprise, partnership, corporation, association, society or group; the singular term shall include the plural.

“pH” means the negative logarithm (base 10) of the hydrogen ion concentration. The concentration is the weight of hydrogen ions in moles per liter of solution. It is a measure of the acidity or alkalinity of the wastewater. Neutral water, for example, has a pH of seven and a hydrogen concentration of 10.

“Pollutant” means any spoil, waste, residue, sewage, garbage, sludge, munitions, chemicals, biological materials, radioactive materials, heat, rock, sand, dirt, soil, agricultural municipal, or industrial material discharged into water.

“Pollution” means the degradation of the chemical, physical, biological or radiological quality of ground, surface, subsurface, or storm drainage waters by man, or the activities thereof.

“Private collection system” means a privately owned and maintained lateral sewer system installed to serve multi-unit structures on single ownership properties which cannot legally be further divided, such as apartments, mobile home parks, and schools. A single-family residence with a detached garage or shop with sanitary facilities is exempt from this definition.

“Properly shredded garbage” means the wastes from the preparation, cooking and dispensing of food that have been shredded to such 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 in any dimension.

“Public sewer” means any sewer in the public right-of-way or easement operated and maintained by the city.

“Public works director” means the public works director for the city of Philomath or the city’s authorized representative.

“Rate schedules” means the entire body of effective rates, rentals, charges and fees as established by the city council.

“Replacement” means obtaining and installing equipment, accessories, or appurtenances which are necessary during the design or useful life of the treatment works, whichever is longer, to maintain the capacity and performance for which such works were designed and constructed.

“Residential user” means the owner or lessee of a dwelling unit as defined in this chapter. Said dwelling unit may be a single-family dwelling, or a portion of a multifamily dwelling.

“Sanitary sewer” means a conduit intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

“Service charge (user charge)” means a charge levied on users of a treatment works for the user’s proportionate share of the cost of operation and maintenance (including replacement) of such works.

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

“Sewer” means a pipe or conduit for carrying either sewage and industrial wastewater, or storm and surface waters and drainage.

“Sewerage system” means the entire sewage collection and treatment system, exclusive of building sewers. This includes all conduits, pumps, treatment equipment and any other components involved in the collection, transportation, treatment, and disposal of sanitary and industrial wastewater and sludge.

“Shall” is mandatory; “may” is permissive.

“Side sewers” means the city sewer between the property line and main or trunk sewer of the sewer system; also called a lateral sewer.

“Storm drain” means that portion of the storm drainage system that is within the public right-of-way or easement operated and maintained by the city. This may include but is not limited to pipes,

culverts, ditches, waterways or any other appurtenances used for the removal or transportation of rainwater or other unpolluted water.

“Storm sewer” means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastewater.

“Suspended solids (SS)” means the total suspended matter that either floats on the surface or is in suspension in water or wastewater, and that is removable by laboratory filtering.

“Unauthorized connection” is defined as any of the following:

1. Any drain or conveyance, whether on the surface or subsurface, that allows discharge to enter the sewer system that has not been documented in drawings, maps, or equivalent records and approved by the city.

2. Any connection to the sewer system that requires either a plumbing permit or permission from the city, made without the permit or permission.

“Wastewater” means liquid or water-carried pollutants including any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the publicly owned treatment works.

“Water user” means any person using water through the facilities of the municipal water systems.

“Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently. [Ord. 796 § 1, 2015; Ord. 624 § 2, 1994.]

13.20.030 Service area.

The area in which service may be furnished at the city’s option includes all that territory within the corporate limits of the city and certain areas adjacent to or in reasonable proximity thereto. [Ord. 624 § 3, 1994.]

13.20.040 Description of service.

A. Classes of Service. All services installed by the city will be classified as follows:

1. Residential. Single-family and multifamily units.

2. Commercial – Industrial.

- a. Standard Discharge Strength. All nonresidential users with discharge strengths (BOD or SS) not exceeding 240 mg/liter of discharge flow.

- b. Nonstandard Discharge Strength. All nonresidential users with discharge strengths (BOD or SS) in excess of 240 mg/liter.

- c. Industrial. Establishments discharging industrial wastewater as defined in this chapter.

B. Service Charges. A service (user) charge shall be set by the city council upon all customers using the city sewer system.

C. Financial Self-Sufficiency. The user charges shall be fixed at such amounts to assure the financial self-sufficiency of the sewerage system, and thereafter amended as necessary by resolution of the city council.

D. Rate and Fee Structure. Sewer service rates for each of the respective customer classifications enumerated in this subsection shall be derived and calculated in accordance with the following standards and fixed by resolution of the city council:

1. Residential. A monthly base fee plus a use charge based upon residential water consumption during winter months; during the summer months, the average monthly winter water consumption.

2. Standard Discharge Strength. The monthly base fee plus a unit charge per 100 cubic feet (748 gallons) of estimated sewage contribution based upon water consumption. Where the customer in this class can demonstrate to the satisfaction of the city that the volume of sewer discharge does not equal the water volume use because some or all of the water used is not being discharged into the sewer system, the city may determine the appropriate amount of charges based upon the city’s estimate or actual amount of sewer discharge.

3. Nonstandard Discharge Strength. A monthly charge calculated in the same manner as for users in the standard discharge strength class, plus an extra strength fee per unit of discharge based on measured or estimated sewage parameters as established by the city.

4. Industrial. A monthly charge calculated in the same manner as for users in the nonstandard discharge strength class.

E. Review and Revision of Rates. The sewer user charges established in subsection (B) of this section shall, as a minimum, be reviewed annually by the city council of the city of Philomath, and shall be revised periodically to reflect actual costs of operation, maintenance, and replacement of the treatment works, and to maintain the equitability of

the user charge with respect to distribution of the costs of operation and maintenance proportional to each user's contribution to the total wastewater loading of the treatment works. In conjunction with annual review of sewer user charges, the public works director shall review and revise as appropriate the schedule of measured or estimated sewage parameters applicable to the nonstandard discharge strength customer class.

F. Notification. Every customer will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services. On or before November 15th of each year, the city manager shall post for public review at City Hall a listing of the sewage parameters and corresponding categories of business which serve as the basis for the derivation of extra strength fees for users in the nonstandard discharge strength customer class as specified in subsections (D) and (E) of this section.

G. Appeals. Any customer, regardless of customer classification, who believes their sewer user charge as applied to their premises is not within the intent of the foregoing provisions, may make written application to the public works director within 15 days of the date of billing requesting a review of their user charge. The written request shall, where necessary, show the actual or estimated average flow of the user's wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made.

Review of the request shall be made by the public works director. The public works director shall respond within 45 days of the receipt of the appeal. If the customer desires to appeal further, they shall request in writing that the city place their appeal on the agenda of the next regular city council meeting. The decision of the city council shall be final. If the city council determines that the user's charges shall be recomputed, based on approved revised flow and/or strength data, the new charges thus recomputed may be applied retroactively for a period of up to six months.

H. Adjustments of Sewer Charges. In the event of an underground leak in the waterline during a time when sewer charges are based on water usage, the finance director may remove the portion of sewer charges appropriate if the customer demonstrates some or all of the excess charges resulted

from water that did not enter the sewage system. In this circumstance, the winter average water usage shall be appropriately adjusted. Before the city will make any adjustments for a leaking service, the leak must be repaired and a leak adjustment form must be submitted to the utility billing department. The city will not adjust more than four full months prior to the date the leak adjustment form was submitted. [Ord. 796 §§ 2, 3, 2015; Ord. 767 § 1, 2011; Ord. 624 § 4, 1994.]

13.20.050 Application for service.

A. Application. Each applicant for sewer service shall be required to complete an application for service either in person or over the phone.

B. Special Contracts. Contracts, other than applications, may be required prior to service where, in the opinion of the city, special circumstances warrant special consideration. The city may require a special contracts provision requiring the owner of rental property to agree to be responsible for new or continued service at any address where service has been delinquent more than two times in the prior calendar year, or where more than one account has been abandoned with a delinquency due or pending in the prior calendar year. Such a special contract shall include language making any delinquent amount a lien against the property.

C. Security Deposit. A deposit as specified in the rate schedule may be required of any person desiring service. A security deposit need not be made if the applicant has promptly paid all accounts due the city for a reasonable time in the past.

D. Sewer Service Account Fee. Any new application for a sewer service account shall be charged a nonrefundable new account fee in an amount specified in the rate schedule in effect at the time of the application for service.

E. Sewer Only Accounts. Only the owner of real property may apply for a new sewer only account after February 28, 2011. Such a sewer only account shall include language making any delinquent amount a lien against the property.

F. Prior delinquent accounts for any applicant must be brought current before that applicant may have service in that applicant's name. [Ord. 767 § 2, 2011; Ord. 624 § 5, 1994.]

13.20.060 Public policy.

A. Prior to commencing any work on a building sewer or public sewer system, all applicable permits from the city of Philomath and other agencies must be secured and all associated permit fees paid in full. The permits necessary may include, but are not limited to, a plumbing permit, a permit to construct public facilities, and an encroachment permit. The permit shall set forth at what point the connection is to be made, the location, size of facility, type of construction, and other details as the director or his/her designee may reasonably require. Under no circumstances shall any person cut, tap, extend or in any way alter any city owned and operated sewer line or any other appurtenance without first obtaining a permit to do so.

B. No Use Outside City without Contract. No use or benefits of the sewer system or sewage treatment plant of the city shall be extended to or made available to any property not within the corporate limits of the city, except under a contractual agreement. Consistent with Philomath City Charter, no new contract to use or connect to the sewer system, except as is required by state law for health hazard annexations, may be extended unless it is first approved by a majority of voters of the city of Philomath.

1. Charges to Customers Outside the City. Any person having connection to the city sewerage system for property which is outside the corporate boundaries of the city of Philomath shall, in addition to the fees and charges for service called for in PMC 13.20.040(B), be charged monthly fees derived and calculated in accordance with the following standard and fixed by resolution of the city council:

a. Fee in Lieu. A fee in lieu of property tax payments supporting principal and interest for the retirement of indebtedness associated with investment in capital facilities necessary to the sewerage system.

C. Use of Public Sewers Required.

1. It shall be unlawful to discharge to any natural outlet within the city of Philomath, or in any area under the jurisdiction of said city, any sanitary sewage, industrial wastes or other polluted waters.

2. 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.

3. The owner of all houses, buildings or properties used for human occupancy, employment, or other purposes situated within the city and abutting on any street, alley (easement), or right-of-way in which there is now located a sewer line of the city is hereby required to connect directly to the sewer line in accordance with the provisions of this chapter at their expense within 30 days after the date of official notice to do so; provided, that said public sewer is within 170 feet of the property line.

4. Where a public sewer line is not available as specified in subsection (C)(3) of this section, a private sewage disposal system may be used if approved and installed in accordance with the State of Oregon Department of Environmental Quality or the authorized state department that has controlling jurisdiction. At such time as a public sewer becomes available, the private sewage disposal system shall be abandoned and filled in with fill material and the sewer user's sewer service connection shall be connected to the public sewer line.

5. All sewer lines, service laterals and customer sewer service shall be installed in accordance with the provisions established by the State of Oregon Department of Environmental Quality or the authorized state department that has controlling jurisdiction. In addition, all installations must be done in accordance with the city's standards.

D. When Use Is Not Required. When charges are made in those instances where sewer service is not in fact furnished, but the service is available or abutting the property charged, said charges may be waived by the city. Application for such a waiver shall be made by the property owner to the public works director stating fully the grounds for the application. Before a waiver of the sewer charge may be granted, the public works director shall first determine:

1. That special topographical conditions affecting the property exist that are not common to all property in the area;

2. That such special topographical conditions would necessitate the installation and maintenance of pumps or other special equipment which will thereby increase the cost to other property owners in the area; and

3. That the waiver of the sewer service complies with the spirit of these regulations and will not be detrimental to the public health, safety or welfare, or injurious to other properties in the vicinity.

The city shall act upon the application for waiver of sewer service charges within 30 days after the filing thereof. If the city disapproves the application, it shall mail a notice of its action to the applicant forthwith.

Any person aggrieved shall have the right to appeal the decision of the public works director to the city council. The appeal shall be filed within 10 days after the decision of the public works director. The appeal shall be considered at the next regularly scheduled city council meeting. The decision of the city council shall be final. [Ord. 796 § 4, 2015; Ord. 767 § 3, 2011; Ord. 624 § 6, 1994.]

13.20.070 Bills and payments.

A. Responsibility for Payment. The customer who applied for service shall be responsible for payment of all charges prescribed in this chapter and set in the rate schedule. All sewer service charges shall be mailed to the premises where sewer service is furnished unless the customer provides an alternate mailing address.

B. Rendering of Bills. Bills for sewer service will be rendered at the intervals provided in the rate and fee schedule.

C. Payment of Bills.

1. All bills shall be due and payable on presentation. An account becomes delinquent if unpaid 16 days after date of billing. Late fees may be charged and collected on delinquent accounts as set forth in the rate schedule.

2. Closing bills will be collected at the time of discontinuance of service.

3. When bills are delinquent, the city will follow the procedure outlined in PMC 13.20.080.

4. Any change in sewer user shall result in the new user paying the sewer use charges commencing from the date of change. Any new sewer service user shall commence paying the sewer use charges from the time of connection. The sewer base charges shall be prorated on a daily basis. [Ord. 767 § 4, 2011; Ord. 624 § 7, 1994.]

13.20.080 Delinquent accounts.

A. Shutoff Notices to Customers. All customer charges levied in accordance with this chapter shall be a debt due the city. A notice shall be sent to each account which has not been paid by the forty-fifth day after presentation of bill. All delinquent accounts may be collected in any lawful manner. Reasonable costs of collection may be added to the delinquent account.

B. Disputed Billing. If the customer disputes the accuracy of the billing, the customer shall present the objection within 15 days after the date of presentation of the bill. Failure to file a notice of objection to the billing as specified in this section shall constitute a waiver of any defects in the bill and of the customer's right to object. [Ord. 767 § 5, 2011; Ord. 624 § 8, 1994.]

13.20.090 Notices.

A. Notices to Customers. Notices required to be given by the city to a customer will be given in writing and may be mailed to the billing address of record, hung on the front door or personally delivered to the customer. The city is not responsible for lost, stolen or nondeliverable mail. Any defect in a notice of delinquency or other violation of these provisions shall not prevent enforcement of these provisions.

B. Notice from Customers. Notice from a customer to the city shall be given by the customer or their authorized representative in writing at the office of the city finance department. [Ord. 796 § 5, 2015; Ord. 767 § 6, 2011; Ord. 624 § 9, 1994.]

13.20.100 Discontinuance of service.

A. Nonpayment of Bills. The city will refer to PMC 13.20.080 for debt due the city.

B. Fraud and Abuse. The city shall have the right to refuse or to discontinue service to any premises to protect itself against fraud and abuse.

C. Noncompliance. The city may, unless otherwise provided, discontinue service to a customer for noncompliance with any of these regulations if the customer fails to comply with said regulations within seven days after the city delivers written notice of the city's intention to discontinue service. If such noncompliance affects matters of health or safety or other conditions that warrant such action, the city may discontinue service immediately. The expense of such discontinuance, as well as the

expense of restoring service, shall be a debt due the city and may be recovered by any lawful means.

D. Prior to the city reestablishing service after turning off due to nonpayment of bills, customers may be required to enter into special contracts and/or customers may be required to pay a special sewer service deposit consistent with PMC 13.20.050(C) or (E).

E. Customer's Request for Service Discontinuance.

1. A customer may have the service discontinued by notifying the city at least five days in advance of the desired date of discontinuance. The customer will be required to pay all sewer charges until the date of such discontinuance.

2. If notice is not given, the customer will be required to pay for service until the date the city has learned that the customer has vacated the premises or otherwise has discontinued service.

F. Reconnection Charge. In all instances where service has been discontinued because of a delinquent account, a reconnection fee shall be charged in accordance with the rate schedule for the restoration of service. [Ord. 767 § 7, 2011; Ord. 624 § 10, 1994.]

13.20.110 Sewer connections.

A. No customer shall uncover, make any connections with, use, alter or disturb any public sewer or appurtenances without first obtaining a written permit from the city. The written permit will not be issued until the systems development charge has been paid to the city in accordance with the ordinances relating to a systems development charge.

B. All costs and expenses incidental to the installation and connection of the building sanitary sewer shall be borne by the applicant for sewer service. The applicant shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation.

C. Existing building sanitary sewers that connect to a customer's building drain may be used in connection with new buildings only when they are found to meet all the requirements of this chapter, when tested and examined by the city or its representative. A systems development charge shall be charged in accordance with the city ordinance(s) relating to systems development charges.

D. The size and scope of the building sanitary sewer shall be subject to the approval of the city or

its representative, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall not be less than one-eighth inch per foot.

E. The connection of the service lateral into the public sewer line shall be made at a "Y" branch, if such a branch is available at a suitable location. If a "Y" branch is unavailable, the sewer user shall, at his expense, install a "Y" branch in the public sewer at the location specified by the city. A section of the sewer line shall be removed and a new section shall be installed with a tight seal being made between the existing sewer lines and the new section with the use of Calder couplings. In lieu of a "Y" branch and Calder couplings, the connection may be made utilizing an approved type of saddle in accordance with the public works design standards or the public works director. The invert of the customer's sewer service connection at the point of connection shall be at a higher elevation than the invert of the public sewer.

F. The sewer user shall notify the city when the building sanitary sewer is ready for inspection and connection to the public sewer. The connection and installation shall be made in accordance with the city's standards and shall be inspected and approved by a state-certified plumbing inspector and a representative of the city.

G. Whenever possible, the building sanitary sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any customer's building drain is too low to permit gravity flow to the sewer line, sanitary sewage carried by such building drain connection shall be lifted and discharged to the building sanitary sewer by a method approved by the city.

H. All installations of sewer lines and service laterals shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

I. Once the sewer user is ready to discharge sewage into the sewer system, the sewer user shall pay all deposits and monthly sewer use fees as established by the city of Philomath resolution(s) that relate to monthly sewer use charges.

J. All service lateral renovations or new installations shall be in accordance with city standards:

1. Utilize pipe and fittings meeting the following specifications:

Cast iron, Class 150, ANSI 21.1.

Ductile iron, Class 50, ANSI 21.51.

PVC, SDR 35, ASTM 3034.

PVC, SDR 41, ASTM F789/D3212.

2. Have a minimum four-inch cleanout, as per the Philomath public works design standards, readily accessible to city crews at or as close as possible to the property line and conforming to city standard service lateral cleanout details.

Utilize no bends greater than 1/16 bends (22.5 degrees), unless a cleanout is installed immediately upstream.

K. Changes in Customer's Equipment. Customers making any material change in size, character or extent of the equipment or operation utilizing sewer service shall immediately give the city written notice of the nature of the change.

L. Sewer Permits.

1. Permit Required. Before commencement of construction of building a sanitary sewer, the sewer user shall first obtain a written permit issued by the city. The application for such permit shall be made on a form furnished by the city which shall be supplemented by any plans, specifications and other information as are deemed necessary by the city. A permit and inspection fee as set forth in this section shall be paid to the city at the time the application is filed.

2. Fees Set by Council. The permit and inspection fees shall be just and equitable charges that are set by resolution of the city council.

3. Issue Subject to Approval of City Manager. The issuance of sewer permits is subject to the approval of the city manager or his authorized representatives. Sewer permits may not be issued if the city manager has determined that the nature of the wastewater can have detrimental effects on the treatment works. [Ord. 796 § 6, 2015; Ord. 767 § 8, 2011; Ord. 624 § 11, 1994.]

13.20.120 Sewer renovation.

Any customer's building sanitary sewer connected to the sewer system outside of the city's right-of-way and within the bounds of the customer's property which may be determined by the city to be causing infiltration of surface, storm or groundwater into the sewer system shall be repaired within 60 days after the date of official

notice to the legal property owner to do so. All costs for said repair shall be borne by the customer.

Before being covered, each repair must be inspected and approved in writing by a state-certified plumbing inspector and by the city.

All storm sewers, including building storm sewers, which are on private property that connect directly to the building sanitary sewer shall be disconnected and properly capped upon receiving a 30-day notice from the city.

The city reserves the right to enter private property for the purpose of testing the building sanitary sewer and/or building drain outside of the city's right-of-way. Damage to landscaping, etc., that is caused during the testing of the building sanitary sewer and building drain shall be repaired by the city at the city's expense.

If the customer fails to correct such infiltration, be it surface, storm or groundwater, within the prescribed time limit, the building sanitary sewer and/or building drainpipe shall be declared non-conforming and five times the monthly use charge shall be assessed until the building sanitary sewer and/or building drainpiping is brought into compliance. The city may also elect to enter such property and make the necessary repair or correction and cause such expenses to become a lien upon the property, which lien shall become due and payable upon entry in the lien docket. It shall be the duty of the city to attempt to serve, by certified or registered mail, in person or by door hanger, a written notice upon the owner of the property at the time said lien is entered on the city lien docket, which notice shall state the amount of the lien and give the property owner notice that said lien will be deemed delinquent if not paid within 60 days after the date the lien was entered on the city lien docket. If the owner fails to pay the lien within 60 days after entry of the lien on the lien docket, the city shall have the right to enforce or foreclose the lien in the manner prescribed for by ORS 223.510 or 223.610, or in any other manner provided by law or city ordinance. The property owner shall bear all costs associated with the filing of the lien. [Ord. 796 § 7, 2015; Ord. 767 § 9, 2011; Ord. 624 § 12, 1994.]

13.20.130 The use of the public sewers.

A. No sewer user shall discharge or cause to be discharged any stormwater, surface water, ground-

water, roof runoff, cooling water or unpolluted industrial process waters into any sanitary sewer.

B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the city.

C. Except as hereinafter provided, no customer shall discharge or cause to be discharged any of the following discharge waters or wastes into any public sewer:

1. Any liquid vapor having a temperature higher than 150 degrees Fahrenheit.

2. Any water or waste which may contain more than 200 parts per million by weight, fat, oil, or grease.

3. Any gasoline, benzene, naphtha, fuel oil or other flammable or other explosive liquid, solid or gas.

4. Any garbage that has not been properly shredded.

5. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works.

6. Any waters or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage system.

7. 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, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

8. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.

9. Any noxious or malodorous gas or substance capable of creating a public nuisance.

10. Any solids, liquids or ashes which may, by themselves, or by interaction with other substances, cause fire or explosive hazards, or in any other way be injurious to person, property or the

operation of the plant sewage system or sewage disposal plant.

11. Any waters or wastes having a five-day biochemical oxygen demand greater than 240 mg/l.

D. To ensure that industrial wastes are not discharged to the city's sewer system that may produce an unusual or deleterious effect on the sewer system or sewer treatment plant, review and approval by the city of Philomath shall be obtained prior to the discharge to the sewer system of said wastes by an industrial user.

E. When required by the city, the sewer users served by the city's sewer system whose building sanitary sewer carries industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sanitary sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the city. The manhole shall be installed by the sewer user at their expense and shall be maintained by the user so as to be safe and accessible at all times.

F. 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 Examination 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 said 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 service lateral is connected.

G. If any waters or wastes are discharged, or are proposed to be discharged to the sewer system, which waters contain the substances or possess the characteristics enumerated in subsection (C) of this section and which in the judgment of the city, or in the judgment of any other government agency with jurisdiction over such waters, substances or discharges, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city may:

1. Reject the wastes;

2. Require pretreatment to an acceptable condition of discharge to the public sewers;

3. Require control over the quantities and rates of discharge; and/or

4. Require additional sewer use charges to cover the added cost of handling and treating the wastes not covered by the sewer use charges established by the city.

If the city 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 city, and subject to the requirements of all applicable codes, ordinances and laws. All costs of any kind associated with the city or any contractor or consultant of the city performing tasks, obtaining equipment, altering or adding to the city system or facilities that are related to monitoring, sampling, testing, regulating or evaluating pretreatment or equalization of waste flows as required by the city, or any other government agency with jurisdiction over such waters, substances or wastes, shall be entirely the responsibility of the sewer user required to pretreat or equalize flows and shall be immediately due and owing the city.

H. 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 sewer user at the user's expense.

I. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and an industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern. [Ord. 796 §§ 8 – 10, 2015; Ord. 767 § 10, 2011; Ord. 624 § 13, 1994.]

13.20.140 Powers and authority of inspector.

A. Duly authorized employees of the city shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing and enforcement in accordance with the provisions of this chapter.

B. All entry and subsequent work, if any, shall be done observing all safety rules applicable to the individual situation and shall not infringe upon the rights or privileges of a person, corporation, firm, association, or partnership which owns the prop-

erty which uses and receives the benefit of the city's sewer system. [Ord. 624 § 14, 1994.]

13.20.150 Unauthorized connections.

No person shall construct, use, maintain, or allow the continued existence of an unauthorized connection to the sewer system. Existing unauthorized connections are expressly prohibited, without limitation, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. [Ord. 796 § 11, 2015.]

13.20.160 Requirement to eliminate unauthorized connections.

The director may require, by written notice, that a person responsible for an unauthorized connection to the sewer system immediately, or by a specified date, comply with the requirements of this chapter to eliminate the connection, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of the ordinance codified in this chapter.

If, subsequent to eliminating a connection found to be in violation of this chapter, the responsible person can demonstrate that an illegal discharge will no longer occur, said person may request city approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense. [Ord. 796 § 11, 2015.]

13.20.170 Notice of violation.

Whenever the director finds that a person has violated a provision of this chapter, the director may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

A. The elimination of unauthorized connections or illegal discharges; and

B. That violating discharges, practices, or operations cease and desist. [Ord. 796 § 11, 2015.]

13.20.180 Appeal.

Notwithstanding the provisions of PMC 13.20.210, any person receiving a notice of violation under PMC 13.20.170 may appeal the determination of the director. The appeal must be in writing and must be received by the city manager within seven days of receipt of the notice of violation. If requested in writing, a hearing on the appeal

shall be scheduled before the city council of the city of Philomath within 30 days of the receipt of the appeal. Thereafter, the city council may render its decision based upon the record of the hearing on the notice of violation, grant an additional hearing to take additional evidence, or conduct a de novo hearing.

The city council, in consultation with the city attorney, shall establish rules and procedures for the conduct of the appeal in order to accord the discharger minimum due process. The burden of proof, on appeal, shall remain with the city by a preponderance of the evidence. The city council shall affirm, reverse, or modify the findings, conclusions, and requirements of the notice of violation and shall serve its decision, in writing, upon the discharger. The decision of the city council shall be final. [Ord. 796 § 11, 2015.]

13.20.190 Abatement by city.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or in the event of an appeal under PMC 13.20.180, within 10 days of the decision of the city council upholding the decision of the director, then the city or a contractor designated by the director is authorized to enter upon the subject private property and take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the city or designated contractor to enter upon the premises for the purposes set forth above. [Ord. 796 § 11, 2015.]

13.20.200 Recovery of abatement costs.

A. Within 30 days after abatement of the condition by city, the director or his designee shall prepare a recap of all costs incurred to abate the condition, including administrative costs.

B. A summary of costs shall be mailed by registered or certified mail to the same person or persons to whom the notice of violation was sent per PMC 13.20.170, or their successors in title, and shall advise of the city's intent to assess said costs against the real property and shall further advise the owner/owners of their right to a hearing before the city council prior to assessment upon receipt by the director, within 15 days of the date of mailing, of a written request for a hearing.

C. If the costs of abatement are not paid to the city within 30 days from the date of the mailing of the summary of costs, said summary shall be presented to the city council and, if the council finds said costs to be reasonable, the council shall pass a resolution directing that the amount of said costs be entered in the docket of city liens; and upon such entry being made, said costs shall constitute a lien upon the property in question.

D. The lien shall be enforced and shall bear interest at a rate to be determined by the council at the time of the resolution referred to in subsection (C) of this section. The interest shall commence from the date of entry of the lien in the lien docket and shall have priority over all other liens and assessments to the maximum extent permitted by law. The costs of filing the lien shall be included in the total cost of the lien.

E. An error in the name of the property owner/owners/agents shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property. [Ord. 796 § 11, 2015.]

13.20.210 Summary abatement.

The director is authorized to require summary abatement of any violation of this chapter that constitutes an immediate threat to the environment or the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the director, the city of Philomath is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the city of Philomath shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking other and further relief authorized under this chapter. [Ord. 796 § 11, 2015.]

13.20.220 Penalties.

A. Any person violating any provision of this chapter shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

B. Any customer who shall continue any violation beyond the time limit provided for in subsection (A) of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding \$2,500 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

C. Any sewer user 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.

D. Any remedy, including collection, requirement to enter into special contracts, requirements to pay special account deposits, or any other action authorized by any local, state or federal law, is cumulative and not exclusive. [Ord. 796 § 12, 2015; Ord. 767 § 11, 2011; Ord. 624 § 15, 1994. Formerly 13.20.150.]

13.20.230 Violations deemed a public nuisance.

In addition to the enforcement processes and penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter that is a threat to the environment, public health, safety, or welfare, and is declared and deemed a nuisance, may be summarily abated or restored by the city at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the city. [Ord. 796 § 13, 2015.]

13.20.240 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter. [Ord. 796 § 13, 2015.]

13.20.250 Ultimate responsibility of the discharger.

The standards set forth within this code and promulgated pursuant to the provisions of this code are minimum standards; therefore, these code provisions are not intended and do not imply that compliance with these code provisions by any person or owner/operator of a premises will ensure that

there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the state, caused by said person. These code provisions shall not create liability on the part of the city of Philomath, nor any agent, officer or employee thereof, for any damages that result from any discharger's reliance on these code provisions or any decision lawfully made. [Ord. 796 § 13, 2015.]

Chapter 13.30**WATER SYSTEM**

Sections:

- 13.30.010 Companion ordinance.
- 13.30.020 Definition of terms.
- 13.30.030 Service area.
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13.30.010 Companion ordinance.

This chapter is a companion ordinance to Chapter 14.15 PMC.

A. The city council has adopted Chapter 14.15 PMC requiring new development to pay system development charges. PMC 14.15.050(C) requires adoption of an SDC methodology by ordinance.

B. It has been determined that the existing methodology for water systems development charges needs to be updated to reflect current and future needs of the city water system. The Philomath city council therefore adopts the Capital Improvement Plan and Methodology for Water SDCs, attached to the ordinance codified in this section. [Ord. 733 §§ 1, 2, 2004; Ord. 625 § 1, 1994.]

13.30.020 Definition of terms.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

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

“Approved backflow prevention assembly” or “backflow assembly” or “assembly” means an assembly to counteract backpressure and/or prevent back-siphonage. This assembly must appear on the list of approved assemblies issued by the Oregon Department of Human Services – Health Services.

“Auxiliary supply” means any water source or system other than the city of Philomath water system.

“Backflow” means the flow in the direction opposite to the normal flow or the introduction of any foreign liquids, gases or substances into the city of Philomath water system.

“Certified backflow assembly tester” shall mean a person who has successfully completed and maintains all requirements as established by the Department of Human Services – Health Services to be a tester in the state of Oregon.

“Certified cross connection control specialist” shall mean a person who has successfully completed and maintains all requirements as established by the Department of Human Services – Health Services to be a specialist in the state of Oregon.

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

“City water system” shall refer to and mean the city of Philomath water system, which shall include wells, treatment mechanisms or processes,

pumping stations, reservoirs, supply trunk or feeder lines, service lines, meters and all other appurtenances, device lines and items necessary to the operation of the system and to supply water service to individual property or premises and shall include the city of Philomath's potable water with which the system is supplied.

"Commercial service" means provision of water to premises which include mercantile establishments, stores, offices, public buildings, governmental agencies, public and private hospitals, schools, churches and mercantile establishments combined with residences, except those in which each unit is metered separately, but not an industrial user.

"Contamination" means the entry into or presence in a public water supply system of any substance which may be deleterious to health and/or quality of the water.

"Cross connection" means any physical arrangement where a potable water supply is connected, directly or indirectly, with any other non-drinkable water system or auxiliary system, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp coolers or any other device 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 arrangements, jumper connections, removable sections, swivel or changeover devices or other temporary or permanent devices through which or because of which backflow may occur are considered to be cross connections.

"Council" means the city council of the city of Philomath.

"Customer" means a property owner of record, agent of the owner or tenant who receives service from the city and is responsible for payment of charges/fees.

"Customer line" means the piping from the meter to the property served.

"Date of presentation" means the date upon which a bill or notices are mailed or delivered personally to the customer or his designee.

"Degree of hazard" means the non-health hazard or health hazard or high hazard classification that shall be assigned to all actual or potential cross connections.

"DHS" means the State of Oregon Department of Human Services – Health Services.

Director. See "Public works director."

"Double check detector assembly" or "DCDA" means an assembly which consists of two independently operating check valves which are spring loaded or weighted. The assembly comes complete with a shutoff valve on each side of the checks, as well as test cocks to test the checks for tightness. It shall also be provided with a factory bypass arrangement with a meter and a minimum of an approved double check assembly.

"Double check valve backflow prevention assembly," "double check assembly," "double check" or "DCVA" means an assembly which consists of two independently operating check valves which are spring loaded or weighted. The assembly comes complete with a resilient seated shutoff valve on each side of the checks, as well as test cocks to test the checks for tightness.

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

"Fluoride" means any fluoride compound added to the city water supply to promote dental health.

"Health hazard" means an actual or potential threat of contamination of a physical, chemical or biological nature to the public potable water system or the consumer's potable water system that would be a danger to health.

"Industrial service" means the provision of water to a customer for use in manufacturing or processing activities.

"Main extensions" means extensions of distribution pipelines, exclusive of service connections, beyond existing facilities.

"Mains" means distribution pipelines located in streets, highways, public ways or private rights-of-way which are used to serve the general public.

"Meter rate service" means provision for supplying water in measured quantities.

"Mobile units" shall mean units that are temporary in nature, connecting to the water system through a hydrant, hosebib, or other appurtenance of a permanent nature that is part of the city water system or a permanent water service to a premises. Examples can include but are not limited to the following: water trucks, pesticide applicator vehicles, chemical mixing units or tanks, waste or septage hauler's trucks or units, sewer cleaning equipment, carpet or steam cleaning equipment other than

homeowner use, rock quarry or asphalt/concrete batch plants or any other mobile equipment or vessel that poses a threat of backflow in the city water system. Uses that are excluded from this definition are recreational vehicles at assigned sites or parked in accordance with other policies pertaining to recreational vehicles and homeowner devices that are used by the property owner in accordance with other provisions of this, or other, city policies pertaining to provision of water service to premises.

“Municipal use” means provision for supplying water to departments of the city.

“Non-health hazard” shall mean the classification assigned to an actual or potential cross connection that could allow a substance that may be objectionable, but not hazardous to one’s health, to backflow into the potable water supply.

“OAR” shall mean Oregon Administrative Rules.

“Person” means any individual, company, enterprise, partnership, corporation, association, society or group; the singular term shall include the plural.

“Point of use isolation” means the appropriate backflow prevention within the consumer’s water system at or near the point at which the actual or potential cross connection exists.

“Pollution hazard” means an actual or potential threat to the physical properties of the water system or the potability of the public or the consumer’s potable water system, but which would not constitute a health or system hazard, as defined. The maximum intensity of pollution to which the potable water system could be degraded under this definition would cause minor damage to the system or its appurtenances.

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

“Premises isolation” means the appropriate backflow prevention at the service connection between the public water system and the premises. This location will be at or near the property line and downstream from the service connection meter.

“Public works director” means the public works director for the city of Philomath or the city’s authorized representative.

“Rate schedules” means the entire body of effective rates, rentals, charges and fees as established by the city council.

“Reduced pressure detector assembly” or “RPDA” shall mean an approved assembly consisting of two approved reduced pressure backflow assemblies, set in parallel, equipped with a meter on the bypass line to detect small amounts of water leakage or use.

“Reduced pressure principle backflow prevention assembly” or “reduced pressure principle assembly” or “RP assembly” shall mean an assembly containing two independently acting approved check valves together with a hydraulically operated, mechanically independent pressure differential relief valve located between the check valves, and at the same time, below the first check valve. The assembly shall include properly located test cocks and two tightly closing shut-off valves.

“Resident” means a person or persons living within the area(s) served by the city water system.

“Residential service” means provision of water for household residential purposes, including water for sprinkling lawns, gardens and shrubbery, watering livestock, washing vehicles and other similar and customary purposes.

“Retrofitting” means to furnish a service connection with parts or equipment made available after the time of construction or assembly installation.

“RFP” shall mean request for proposals.

“Service charge (user charge)” means a charge on users of the treatment works for the user’s proportionate share of the cost of operation and maintenance (including replacement) of such works.

“Service connection” means the pipe, valves and other facilities by means of which the city conducts water from its distribution mains to and through the meter, but does not include the piping from the meter to the property, structure or facility served.

“Specialist” means a DHS-certified cross connection specialist, either employed with or contracted by the city.

“Submerged heads” mean irrigation sprinkling or delivery devices that are located below the surface of the landscaped area in which they are installed.

“Supervisor” shall mean the city of Philomath public works operations supervisor.

“Temporary service” means a service for circuses, bazaars, fairs, construction work and other

uses that, because of their nature, will not be used steadily or permanently.

“Thermal expansion” means the pressure created by the expansion of heated water.

“Unauthorized connection” is defined as any of the following:

1. Any connection to the city water system that has not been documented in drawings, maps, or equivalent records and approved by the city.

2. Any connection to the city water system that requires a plumbing permit or permission from city made without the permit or permission.

3. Any connection to the water system that the city has required to be disconnected and has not been disconnected. [Ord. 797 § 1, 2015; Ord. 780 § 1, 2012; Ord. 761 § 1, 2010; Ord. 625 § 2, 1994.]

13.30.030 Service area.

The area in which service may be furnished at the city’s option includes all that territory within the corporate limits of the city and certain areas adjacent to or in reasonable proximity thereto. [Ord. 625 § 3, 1994.]

13.30.040 Description of service.

A. Supply. The city will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water to the customer in accordance with state and federal standards.

B. Pressure and Supply. The city assumes no responsibility for loss or damage because of lack of water pressure or excess water pressure and merely agrees to furnish such quantities and pressures as are available in its general distribution system. The customer is responsible for the purchase, installation, maintenance and ownership of a pressure reducing/regulating valve (PRV). The service may be subject to shutdowns and variations in pressure incidental to the operation of the system.

C. Quality. The city will exercise reasonable diligence to supply potable water in accordance with state and federal standards.

D. Classes of Service. All services installed by the city will be classified as follows:

1. Single-Family Residential. Single-family or multifamily units serviced by separate meters.

2. Multifamily Residential. Multifamily units serviced by one meter.

3. Commercial.

4. Industrial.

5. Contract service.

6. Fire protection.

E. Service Charges. A service (user) charge shall be set by the city council upon all customers using the city water system.

F. Financial Self-Sufficiency. The user charges shall be fixed at such amounts to assure the financial self-sufficiency of the water system, and thereafter amended as necessary by resolution of the city council.

G. Review and Revision of Rates. The water user charges established in subsection (E) of this section shall, at a minimum, be reviewed annually by the city council of the city of Philomath and shall be revised periodically to reflect actual costs of operation, maintenance, and replacement of the treatment works, and to maintain the equitability of the user charge with respect to distribution of the costs of operation and maintenance proportional to each user’s contribution to the total demand of the treatment works.

H. Fee Schedule. The city council shall periodically adopt a fee schedule for administrative and regulatory fees required for the efficient and fair administration of the city water system. [Ord. 797 § 2, 2015; Ord. 768 § 1, 2011; Ord. 625 § 4, 1994.]

13.30.050 Application for service.

A. Application. Each applicant for water service shall be required to complete an application for service either in person or over the phone.

B. Special Contracts. Contracts, other than applications, may be required prior to service where, in the opinion of the city, special circumstances warrant special consideration.

The city may require a special contracts provision requiring the owner of rental property to agree to be responsible for new or continued service at any address where service has been discontinued due to delinquency more than two times in the prior calendar year, or where more than one account has been abandoned with a delinquency due or pending in the prior calendar year. Such a special contract shall include language making any delinquent amount a lien against the property.

C. Security Deposits. A deposit as specified in the rate schedule may be required of any person desiring service. A security deposit need not be made if the applicant has promptly paid all

accounts due the city for a reasonable time in the past.

D. Water Service Account Fee. Any new application for water shall be charged a nonrefundable new account fee in an amount as specified in the rate schedule in effect at the time of the application for service.

E. Prior delinquent accounts for any applicant must be brought current before that applicant may have service in that applicant's name.

F. Special Water Service Account Deposit. A refundable deposit, as set in the rate schedule, per account will be required for service at any property where an account has been involuntarily discontinued more than two times in the prior calendar year, or where any account has been abandoned with any delinquency due or pending in the prior calendar year, or where any account requiring a special water service account deposit has had delinquencies charged against the deposit in the prior calendar year. Once the special water service deposit has been made, service can be activated. If there is any delinquency in the account, those charges will be deducted from the deposit. [Ord. 768 § 2, 2011; Ord. 625 § 5, 1994.]

13.30.060 Public policy.

A. Prior to commencing any work on a building water system or public water system, all applicable permits from the city of Philomath and other agencies must be secured and all associated permit fees paid in full. The permits necessary may include, but are not limited to, a plumbing permit, a permit to construct public facilities, and an encroachment permit. The permit shall set forth at what point the connection is to be made, the location, size of facility, type of construction, and other details as the director or his/her designee may reasonably require. Under no circumstances shall any person cut, tap, extend or in any way alter any city-owned and operated water line, fire hydrant, meter, or any other appurtenance without first obtaining a permit to do so.

B. No Use Outside City without Contract. No use or benefits of the water system or water treatment plant of the city shall be extended to or made available to any property not within the corporate limits of the city, except under a contractual agreement. Consistent with Philomath City Charter, no new contract to use or connect to the water system,

except as is required by state law for health hazard annexations, may be extended unless it is first approved by a majority of voters of the city of Philomath.

C. Water Main Extensions.

1. Service within the City Limits. Water mains may be extended inside the city limits upon petition to and acceptance by the city council by the following method: Water mains shall be constructed in accordance with the city's standards and specifications, and subject to inspection by the city, with all necessary easements, rights-of-way and permits, as required, obtained in the city of Philomath's name prior to construction. After completion, and if accepted by the city, the water main, free of all liens and encumbrances, shall be transferred, along with all necessary easements, rights-of-way and permits, to the city. The city will then own, operate and maintain the water main. The water mains shall be constructed of pipe not smaller than eight inches in diameter, unless the city finds that engineering considerations determine that a larger or smaller pipe should be installed. Where the city has determined that a water main larger or smaller than eight inches in diameter is required or desirable, the city shall have the right to require the installation of the larger or smaller pipe. The developer or contractor may be required to pay all additional costs for the installation and materials for the increased size of the water main, where the city requires installation of larger pipe.

2. Fire Flow Standards. In the event new construction occurs in the area of an existing water main and it is determined by the city that fire flow requirements require a larger water main, the city shall have the right to reject the new construction or to require installation of a water main to meet fire flow requirements.

3. Service Outside City Limits. The city is not required to construct or provide service to water mains specifically residential, commercial, industrial or combined residential, commercial and industrial uses outside the city limits. Individual service connections may be permitted by option of the city on those mains owned and operated by the city outside the city limits.

a. Discontinuation of Service and Guarantee of Supply. All water delivered outside the city limits shall be considered as a special service and

not provided by the city as a common utility service. The quantity of water supplied may be reduced or the service entirely discontinued at any time at the discretion of the city and for any reason. The city shall have no liability in any way to customers for failure to provide service or any failure of the system.

b. Rules and Regulations.

i. All customers outside the city receiving water from the city shall comply with and be bound by the rules and regulations of the city.

ii. Individuals shall cooperate to a reasonable and practicable extent with other customers in the extension and/or enlargement of common facilities.

iii. No customer shall interconnect between water furnished by the city and water from another source. Upon discovery by the city that such an interconnection has been made, the city will discontinue service and may assess a penalty for illegal service connection.

D. Fluoridation of Water Supply.

1. The city will add fluoride to the city water supply in sufficient quantities to maintain a level of 0.7 parts per million in the potable water supply.

2. Addition of fluoride to the city water supply system, maintenance of equipment, selection of fluoride compound, concentration of fluoride and other substances in the water, and training of water treatment plant operators shall be subject to review and approval by the Oregon Health Authority – Public Health Division. [Ord. 797 § 3, 2015; Ord. 780 § 2, 2012; Ord. 768 § 3, 2011; Ord. 625 § 6, 1994.]

13.30.070 Bills and payment.

A. Responsibility for Payment of Bills. The customer who applied for service shall be responsible for payment of all charges prescribed in this chapter and set in the rate schedule. The customer who applied for service shall also be responsible for payment of all administrative fees authorized by the city council. All water service charges shall be mailed to the premises where water service is furnished unless the customer provides an alternate mailing address.

B. Rendering of Bills.

1. Meters will be read at regular intervals for the preparation of billings and as required for the preparation of opening, closing and special bills.

2. Bills for water service will be rendered at the intervals provided in the rate and fee schedule.

C. Payment of Bills.

1. All bills shall be due and payable on presentation. An account becomes delinquent if unpaid 16 days after date of billing. Late fees may be charged and collected on delinquent accounts as set forth in the rate schedule.

2. Closing bills will be collected at the time of discontinuance of service.

3. When bills are delinquent, the city will follow the procedure outlined in PMC 13.30.080.

4. Any change in water user shall result in the new user paying the water use charges commencing from the date of change. Any new water service user shall commence paying the water use charges from the time of connection. The water base charges shall be prorated on a daily basis.

D. Separate Meter Billings. Each meter on customer's property will be read separately and the readings of two or more meters will not be combined. [Ord. 797 § 4, 2015; Ord. 768 § 4, 2011; Ord. 625 § 7, 1994.]

13.30.080 Delinquent accounts.

A. Shutoff Notice. All customer charges levied in accordance with this chapter shall be a debt due the city. A notice shall be sent to each account which has not been paid by the forty-fifth day after presentation of bill. All delinquent accounts may be collected in any lawful manner. Reasonable costs of collection may be added to the delinquent account.

B. Shutoff Date. Said notice shall state a turn-off date, seven days from the date the shutoff notice is mailed.

C. Disputed Billing. If the customer disputes the accuracy of the billing, the customer shall present the objection within 15 days after the date of presentation of the bill. Failure to file a notice of objection to the billing as specified above shall constitute a waiver of any defects in the bill and of the customer's right to object.

D. Discontinue Service. On the shutoff date, the meter reader or other agent of the city shall turn off the service. Service will not be restored until payment arrangements have been made.

E. Prior to the city reestablishing service after turning off due to nonpayment of bills, customers may be required to enter into special contracts

and/or customers may be required to pay a special water service deposit consistent with PMC 13.30.050(C) and (F). [Ord. 768 § 5, 2011; Ord. 625 § 8, 1994.]

13.30.090 Notices.

A. Notices to Customers. Notices required to be given by the city to a customer will be given in writing and may be mailed to the billing address of record, hung on the front door or personally delivered to the customer. The city is not responsible for lost, stolen or nondeliverable mail. Any defect in a notice of delinquency or other violation of these provisions shall not prevent enforcement of these provisions.

B. Notice from Customers. Notice from a customer to the city shall be given by the customer or their authorized representative in writing at the office of the city finance department.

C. Notice Fees. The city council has determined that some notices required by this chapter cause unreasonable burdens on the public and the city water system. Of particular concern to the city council are the administrative costs associated with second notices for inspection of backflow prevention assembly devices. The fee schedule adopted by the city council includes a fee the customer receiving such a second notice must pay in order to maintain service. [Ord. 797 § 5, 2015; Ord. 768 § 6, 2011; Ord. 625 § 9, 1994.]

13.30.100 Discontinuance of service.

A. Nonpayment of Bills. A customer's water service may be discontinued if the service bill is not paid in accordance with the procedures as listed in PMC 13.30.080.

B. Unsafe Apparatus.

1. The city may refuse to furnish water and may discontinue service to any premises where apparatus, appliances or equipment using water are dangerous, unsafe or are in violation of laws, ordinances or legal regulations. The city reserves the right of inspection if there is reason to believe that unsafe or illegal apparatus is in use.

2. Except for cross connection control, the city does not assume responsibility for inspecting apparatus on customer's property.

C. Service Detrimental to Others. 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. Fraud and Abuse. The city shall have the right to refuse or to discontinue water service to any premises to protect itself against fraud and abuse.

E. Noncompliance. The city may, unless otherwise provided, discontinue water service to a customer for noncompliance with any of these regulations if the customer fails to comply with said regulations within seven days after the city delivers written notice of the city's intention to discontinue service. If such noncompliance affects matters of health or safety or other conditions that warrant such action, the city may discontinue service immediately. The expense of such discontinuance, as well as the expense of restoring service, shall be a debt due to the city and may be recovered by any lawful means. Any remedies, including collection, requirement to enter into special contracts, requirements to pay special water service account deposits, or any other action authorized by any local, state or federal law, are cumulative and not exclusive.

F. Customer's Request for Service Discontinuance.

1. A customer may have the water service discontinued by notifying the city at least five days in advance of the desired date of discontinuance. The customer will be required to pay all water charges until the date of such discontinuance.

2. If notice is not given, the customer will be required to pay for water service until the date the city has learned that the customer has vacated the premises or otherwise has discontinued service.

G. Shutoff Charge. In all instances where the city provides a notice for noncompliance and water has been turned off, a reconnection fee shall be charged in accordance with the rate and fee schedule for the restoration of service.

H. Reconnection Charge. In all instances where water has been turned off because of a delinquent account, a reconnection fee shall be charged in accordance with the rate and fee schedule for the restoration of service.

I. After-Hours Reconnect. An after-hours fee will be added for restoration of service requests that are outside of regular business hours. Payment of minimum balance due plus the after-hours fee must be submitted to the utility billing department

by noon of the next business day or water will be shut off and not reconnected until total bill plus fees are paid in full.

J. Penalty for Turning on Water without Authority. Should the water be turned on by any water customer or other person without authority from the city, the water may be turned off by the city and the customer will be required to pay the minimum account balance plus any penalty fees before the water is turned back on.

K. Damage Resulting from Turning on Water without Authority. If the city locks the meter and the lock is subsequently removed by any person, without authorization from the city, or should any damages occur to the city's infrastructure or property by any customer or other person who attempts to turn water on without authority from the city, the customer will be charged the actual cost to repair such damages and be subject to possible criminal charges or fines. Water shall not again be furnished to such premises until said charges and the cost of the water used are paid. [Ord. 797 §§ 6, 7, 2015; Ord. 768 § 7, 2011; Ord. 625 § 10, 1994.]

13.30.110 Service connections and meters.

The city may furnish and install a service of such size and at such location as the applicant requests, provided:

A. Such requests are reasonable.

B. The location is such that the utility has in place a distribution main of sufficient size adequate to provide service to this location without detriment to existing customers. In all cases, the final location of the proposed meter shall be subject to city approval.

C. That such a distribution main is adjacent to and extends along the full length of the property frontage along the right-of-way.

The service will be installed from its water distribution main to the curb line or property line of the premises which may abut on the street, on other thoroughfares or on the city right-of-way or easement, as set forth in the Philomath public works design standards. Charges for new services shall be paid for in advance and shall be in accordance with the rate and fee schedule in effect at the time the new service is installed. The city council may, by resolution, change the fee schedule to reflect changing conditions.

D. Meters.

1. The applicant shall provide and maintain an accessible, unflooded vault of a size as specified for all meters larger than two inches.

2. Owner/customer shall maintain an area of at least 24 inches on each side of meter at all times to enable reading and maintenance to the meter. Vehicles, equipment, trash, firewood, lumber or any other objects shall not be situated over or around the meter box in any way that would obstruct access to the meter. If the meter cannot be read, the meter reading will be estimated and an additional fee, as set forth in the fee schedule, may be charged. If maintenance cannot be performed on the meter, the cost of moving such obstructions may result in additional fees, and shall be billed to the owner/customer.

3. No rent or other charge will be paid by the city for a meter or other facility, including housing and connections, located on a customer's premises.

4. Meters will be furnished and installed by the city after all applicable fees have been paid and when the service has passed inspection.

5. Included in the charges are all meters and necessary appurtenances for installation and continued operation of the service.

6. All meters shall be sealed by the city at the time of installation, and no seal shall be altered or broken except by an authorized employee or agent of the city.

E. Change in Location of Meter or Service. Meters or services moved for the convenience of the customer will be relocated only at the customer's expense.

F. Change in Size of Meter or Service. If for any reason a change in size of a meter or service or both is required, the charges shall be paid for in advance and shall be in accordance with the rate and fee schedule in effect at the time the change is made.

G. Ownership. Meters shall be owned by the city and will be maintained at its expense. The service connection, whether located on public or private property, is the property of the city, and the city reserves the right to repair, replace and maintain it, as well as to remove it upon discontinuance of service. Fire service water lines shall be owned by the city up to the point of connection to the backflow prevention device in instances where the backflow prevention device is located at the prop-

erty line. In instances where the backflow prevention device is located inside of a building, the property owner shall own and maintain the fire service water line from the valve at the point of connection to the city's water main. A permit shall be required by the property owner to perform maintenance and/or repairs in the city right-of-way.

H. Charges for Service Pipes Connected Without a Permit. If premises are connected without the application prescribed in this chapter, such premises shall be immediately disconnected. Before a new connection is made, the applicant shall pay double the new connection fee. A new connection shall only be made upon compliance with provisions of this chapter.

I. Changes in Customer's Equipment. Customers making any material change in the size, character or extent of the equipment or operation utilizing water service shall immediately give the city written notice of the nature of the change.

J. Abandoned and Nonrevenue-Producing Services. Where a service connection to any premises has been abandoned or not used for a period of three months or more, the city may remove said service connection at its discretion. New service shall be placed only upon an application being made for service and payment for a new connection at the rate in effect at the time the new connection is made. If the service connection has not been removed, it may be reconnected upon application and payment of the fee set forth in the rate and fee schedule. An abandoned service being used without written permission from the city is an unauthorized connection and is subject to PMC 13.30.280.

K. Abandoned and Nonrevenue-Producing Meters. Where a meter to any premises has been abandoned or not used for a period of three months or more, the city may remove said meter. A new meter shall be placed only upon an application being made for service and payment for a meter at the rate in effect at the time the new meter is installed. If the meter has not been removed, it may be reconnected upon application and payment of the fee set forth in the rate and fee schedule.

L. Leaking Services. Where there is a leak between the main and the meter, or in the meter itself, the city shall make all repairs free of charge. If the leak is after the meter, it shall be the responsibility of the customer to repair. Adjustments for leaking services will be made in accordance with

PMC 13.30.130(B)(4). Before the city will make any adjustments for a leaking service, the leak must be repaired and a leak adjustment form must be submitted to the utility billing department. The city will not adjust more than four full months prior to the date the leak adjustment form was submitted. [Ord. 797 §§ 8, 9, 2015; Ord. 768 § 8, 2011; Ord. 625 § 11, 1994.]

13.30.120 Multiple units.

A. Number of Services to Separate Premises. Separate premises under single control or management will each be supplied through individual service connections unless the city elects otherwise.

B. Service to Multiple Units. Separate houses, buildings, living or business quarters on the same premises, under a single control or management, may be served at the option of the customer by either of the following methods:

1. Through a separate service connection to each or any unit; provided, the pipeline system from each service is independent of the others and is not interconnected.

2. Through a single service connection to the entire premises on which only one minimum charge will be applied. The responsibility for payment of charges for all water furnished to combined units supplied through a single service connection of approved capacity must be assumed by the customer. [Ord. 625 § 12, 1994.]

13.30.130 Meter error.

A. Meter Test. On customer request:

1. A customer may, giving not less than one week's notice, request the city to test the meter serving the premises.

2. The city may require the customer to deposit an amount as set forth in the rate and fee schedule to cover the reasonable cost of the test.

3. The city will replace the meter and have the meter in question tested. The test deposit will be returned if the meter is found to register more than two percent fast.

4. A written report giving the results of the test shall be available to the customer within 10 days after completion of the test.

B. Adjustment of Bills for Meter Error.

1. Fast Meters. When, upon test, a meter is found to be registering more than two percent fast under conditions of normal operation, the city will

refund to the customer the full amount of the overcharge based on estimated average readings for a period of not exceeding three months that the meter was in use.

2. Slow Meters.

a. When, upon test, a meter used for domestic or residential service is found to be registering more than 10 percent slow, the city may bill the customer for the amount of the undercharge based upon estimated average readings for a period not exceeding three months that the meter was in use.

b. When, upon test, a meter used for other than domestic service is found to be registering more than five percent slow, the city may bill the customer for the amount of the undercharge based upon estimated average readings for a period not exceeding six months that the meter was in use.

3. Nonregistering Meter. The city may bill the customer for water consumed while the meter was not registering. The bill will be at a minimum monthly meter rate or will be computed upon an estimate of consumption based either upon the customer's prior use during the same season of the year, or upon a reasonable comparison with the use of other customers receiving the same class of service during the same period and under similar circumstances and conditions.

4. Adjustment of Bills for Underground Leaks. Where a leak exists underground between the meter and the building and the same is repaired within 10 days after the customer, agent or the occupant of the premises discovers or has been notified of the possibility of such leakage, the city may allow an adjustment of up to 50 percent of the estimated excess consumption. [Ord. 797 § 10, 2015; Ord. 768 § 9, 2011; Ord. 625 § 13, 1994.]

13.30.140 Fire protection service.

Fire protection connections will be allowed inside and outside buildings under the following conditions:

A. When the owner of a property or building desires such service and a main of sufficient size and volume is present, adjacent to or may be extended to the property (main extensions) in such a manner as to provide the service required.

B. The owner or agent of such a building shall agree in writing that no water may be used from the system except for extinguishing fires or periodic

testing. Before any water for testing can be used, the owner or agent must receive written permission from the public works director.

C. If at any time it is found that any unauthorized connections have been added to the system or that registration is recorded on the detector check meter, the immediate installation of an approved meter, as mentioned in PMC 13.30.110, or the removal of the service may be required by the city. Such water registered shall be charged for at double the regular meter rates and possible criminal charges or fines may be imposed.

D. All fire systems and private hydrants, wet or dry, shall be equipped with the appropriate backflow prevention assemblies as set forth in PMC 13.30.210.

E. In the case of existing fire services which do not meet the conditions of subsection (C) of this section, the hydrants or hose connection may be sealed in such a manner as to indicate use thereof. If the seal is found to be broken, it will be assumed that water is being used from the fire service which is a violation of these rules and which results in action being taken as outlined in subsection (F) of this section.

F. Where any violation of any of the above subsections exists, service may be immediately discontinued. In the case where no detector or proportional meter exists, then one will be required before service is restored. In cases where there is a detector or proportional meter, then the owner or agent must provide satisfactory assurances that the use of water will cease or appropriate means are provided to ensure payment for all the water used. The customer will also be required to pay for all water used. The utility shall estimate this amount in cases where it cannot be determined. The bill must be paid prior to service being restored.

G. No charge will be made for water used in the extinguishing of fires if the owner or agent reports such use to the city in writing within 10 days of such usage.

H. The cost of all detector checks, proportional meters, backflow devices, and related appurtenances, including installation and testing costs, shall be borne by the customer. The customer shall provide drawings to the public works director for approval of devices and installation. Customer shall obtain a backflow permit from the city prior to beginning work.

I. Standby Charges for Automatic Fire Service. The standby charges for automatic fire service are based on wet or dry sprinkling systems without hose or other connections and are set forth in the rate schedule. Combined systems will pay the regular service meter minimums and the regular meter rates.

J. Water for Fire Storage Tanks. Water may be obtained from a fire service for filling a tank connected with the fire service, but only if written permission is secured from the city in advance and an approved means of measurement is available. The rates for general use will apply. The anticipated quantity of water shall be paid for in advance.

K. Ownership of Service Connections and Equipment. Ownership of service connection, meter and all equipment appurtenant thereto shall be the sole property of the city, and no part of the cost thereof will be refunded to the applicant.

L. Pressure and Supply. The city assumes no responsibility for loss or damage because of lack of water pressure and merely agrees to furnish such quantities and pressures as are available in its general distribution system. The service is subject to shutdowns and variations required by the operation of the system. There will be no reimbursement or prorating of the water bill due to shutdowns or other variations. [Ord. 797 §§ 11 – 13, 2015; Ord. 768 § 10, 2011; Ord. 625 § 14, 1994.]

13.30.150 Temporary service.

A. Time Limit. Temporary service connections shall be disconnected and terminated within six months after installation unless an extension of time is granted in writing by the city.

B. Charges for Water Served. Charges for water furnished through a temporary service connection shall be at the established rates for other customers.

C. Installation Charges and Deposits. The applicant for temporary service will be required:

1. To pay the city, in advance, the estimated cost of installing and removing all facilities necessary, as determined by the public works director, to furnish such service or, at the city's option, if service is supplied through a fire hydrant, the applicant will be charged the applicable fee set forth in the rate and fee schedule.

2. To deposit an amount sufficient to cover estimated bills for water during the entire period

such temporary service may be used or to establish credit approved by the city.

3. To deposit with the city an amount equal to the value of any equipment loaned by the city to such applicant for use on temporary service. This deposit is refundable under terms of subsection (D) of this section.

D. Responsibility for Meters and Installation. The customer shall use all possible care to prevent damage to the meter or any loaned facilities of the city which are involved in furnishing the temporary service from the time of installation until removal. If the meter or other facilities are damaged, the cost of making repairs shall be paid by the customer. [Ord. 768 § 11, 2011; Ord. 625 § 15, 1994.]

13.30.160 Pools and tanks.

When an abnormally large quantity of water is desired for filling a swimming pool, log pond or for other purposes, arrangements must be made with the city prior to taking such water. Permission to take water in unusual quantities will be given only if it can be delivered safely through the city's facilities and if other consumers are not inconvenienced. [Ord. 625 § 16, 1994.]

13.30.170 Fire hydrants.

A. Use of and Damage to Fire Hydrants. No person or persons, other than those designated and authorized by the proper authority, or by the city, shall open any fire hydrant, attempt to draw water from it or in any manner damage or tamper with it. Any violation of this regulation will be prosecuted.

B. Moving of Fire Hydrants. When a fire hydrant has been installed in the location specified by the proper authority, the city has fulfilled its obligation. If a property owner or other party desires a change in the size, type or location of the hydrant, the property owner shall bear all costs of such changes. Any change in the location of a fire hydrant must be approved by the city. [Ord. 768 § 12, 2011; Ord. 625 § 17, 1994.]

13.30.180 Responsibility for equipment.

The customer shall, at their own risk and expense, furnish, install and keep in good and safe condition all equipment which may be required for receiving, controlling, applying and utilizing water. The city shall not be responsible for any loss or damage caused by the improper installation of

such water equipment, or the negligence, want of proper care or wrongful act of the customer, property owner, agents or any tenants in installing, maintaining, using, operating or interfering with such equipment.

The city shall not be responsible for damage to property caused by spigots, faucets, valves or other equipment which are open when water is turned on at the meter, either when turned on originally or when turned on after a temporary shutdown. [Ord. 625 § 18, 1994.]

13.30.190 Damage to city's property.

The customer shall be liable for any damage to a meter or other equipment or property owned by the city which is caused by an act of the customer, their tenants or agents. Such damage shall include the breaking or destruction of locks by the customer or others on or near a meter and any damage to a meter which may result from hot water or steam from a boiler or heater on the customer's premises. The city shall be reimbursed by the customer for any such damage promptly on presentation of a bill. [Ord. 625 § 19, 1994.]

13.30.200 Control valves.

The customer shall install a suitable valve, as close to the meter location as practicable, the operation of which will control the entire water supply from the service. The customer is not permitted to operate the curb stop on the meter box. [Ord. 625 § 20, 1994.]

13.30.210 Cross connection.

This section applies throughout the city water system and to every premises and property served by the city water system. It applies to all premises, regardless of date of connection to the city water system. Every owner, occupant or person in control of any concerned premises is responsible for the terms and provisions contained in this section.

A. Cross Connections Regulated.

1. No cross connections shall be created, installed, used or maintained within the area(s) served by the city water system, except in accordance with this section.

2. The specialist shall carry out or cause surveys to be carried out to determine if any actual or potential cross connection exists. If found necessary, an assembly commensurate with the degree

of hazard will be installed at the service connection.

3. The owner, occupant or person in control of any given premises is responsible for all cross connection control within the premises.

4. All premises designated as health hazards as stipulated by the OAR shall install a reduced pressure backflow assembly at the service connection in accordance with this chapter.

5. It is the responsibility of the property owner/occupant to purchase, install, test, repair and maintain all backflow assemblies.

B. Backflow Prevention Assembly Requirements. A specialist employed by or under contract with the city shall determine the type of backflow assemblies to be installed within the city water system. All assemblies shall be installed at the service connection unless it is determined by the specialist and approved by the supervisor that it should be installed at the point of use or at an alternate location. An approved assembly shall be required in each of the following circumstances, but the specialist is in no way limited to the following circumstances:

1. In the case of any premises where there is any material dangerous to health which is handled in such a fashion as to permit entry into the potable water system, the potable water system shall be protected by an approved air gap separation or an approved reduced pressure principle backflow prevention assembly.

2. When the nature and extent of any activity at a premises, or the materials used in connection with any activity at a premises, or materials stored at a premises, could contaminate or pollute the potable water system.

3. When any premises has one or more cross connections, as that term is defined in PMC 13.30.020.

4. When internal cross connections are present that are not correctable.

5. When intricate plumbing arrangements are present making it impractical to ascertain whether cross connections exist.

6. When the premises has a repeated history of cross connections being established or reestablished.

7. When entry to the premises is restricted so that surveys for cross connections cannot be made

with sufficient frequency to assure cross connections do not exist.

8. When materials are being used such that, if backflow should occur, a health hazard could result.

9. When an appropriate cross connection survey report form has not been filed with the supervisor.

10. Any and all used water return systems.

11. If a point-of-use assembly has not been tested or repaired as required by this section, the installation of a reduced pressure principle assembly will be required at the service connection.

12. There is piping or equipment for conveying liquids other than potable city of Philomath water and that piping or other equipment is under pressure and installed and operated in a manner that could cause a cross connection.

13. When installation of an approved backflow prevention assembly is deemed by a specialist to be necessary to accomplish the purchase of this section.

14. The use of any type of chemical spray attachment connected to the premises plumbing, including garden hose fertilizers and pesticide applicators, is not allowed within the city water system without proper protection from the potential of backflow occurring.

15. The use of any type of radiator flush kits attached to the premises plumbing is not allowed within the city water system without proper protection from backflow occurring.

16. Wherever reclaimed water is used on premises.

17. Where there is a premises with an auxiliary water supply which is connected directly to the city supply.

18. When a service has been inactive for six months or longer, a survey will be required by the specialist and it is determined a cross connection exists.

19. Wherever required by the current Oregon Administrative Rules.

C. New Construction.

1. On all new nonresidential construction an approved backflow assembly shall be installed at the service connection. The type of assembly will be commensurate with the degree of hazard as determined by a specialist.

2. When a building is constructed on commercial premises, and the end use of the building is not determined or could change, a reduced pressure principle backflow prevention assembly shall be installed at the service connection to provide protection of the public water supply in the event of the most hazardous use of the building.

D. Retrofitting. Retrofitting shall be required at all service connections where an actual or potential cross connection exists, and wherever else the city deems retrofitting necessary to comply with the OAR, this section, and the most current edition of the city of Philomath's written program plan.

E. Irrigation Systems. All irrigation systems shall be protected according to plumbing code regulations. In the event any system is equipped with an injector system, a reduced pressure principle assembly will be required.

F. Thermal Expansion. It is the responsibility of the property owner, the occupant, or the person in control of the property to eliminate the possibility of damage from thermal expansion, if a closed system has been created by the installation of a backflow prevention assembly or other appurtenances.

G. Mobile Units. Any mobile unit or apparatus as defined in PMC 13.30.020 which uses the water from any premises within the city water system shall first obtain a permit from the city and undergo inspection to assure an approved air gap or reduced pressure principle assembly is installed on the unit.

H. Installation Requirements. All backflow prevention assembly installations shall follow the requirements as stipulated by the city.

The type of backflow prevention assembly required shall be commensurate with the degree of hazard that exists and must, at all times, meet the standards of the DHS. All backflow prevention assemblies required under this section shall be of a type and model approved by the DHS.

I. Pressure Loss. Any decrease in water pressure caused by the installation of a backflow assembly shall not be the responsibility of the city.

J. Fire Systems. An approved double check backflow prevention assembly shall be the minimum protection on all new fire sprinkler systems using piping material that is not approved for potable water use and/or does not provide for periodic flow-through. A reduced pressure principle backflow prevention assembly must be installed if any solution other than the potable water can be intro-

duced into the sprinkler system. Retrofitting on fire sprinkler systems will be required in each of the following circumstances:

1. Where improper maintenance has occurred;
 2. On all high hazard systems;
 3. Wherever a specialist deems necessary;
- and
4. Wherever required by the OAR.

In the event an assembly is installed on a designated lateral, a detector assembly commensurate with the degree of hazard will be required.

K. Temporary Meters and Hydrant Valves. Backflow protection will be required on all temporary meters and hydrant valves before any use. The type of assembly will be commensurate with the degree of hazard and will be determined on a case-by-case basis by a city of Philomath specialist.

L. Plumbing Code. As a condition of water service, customers shall install, maintain, and operate their piping and plumbing systems in accordance with the Oregon Specialty Plumbing Code, or as amended, and, if applicable, in accordance with this section. If there is a conflict between this section and the plumbing code, the more stringent supersedes.

M. Right-of-Way Encroachment.

1. No person shall install or maintain a backflow prevention assembly upon or within any city right-of-way except as provided in this section.

2. The city reserves the right to have an assembly installed in the right-of-way.

3. A backflow prevention assembly required by the city may be installed upon or within any city right-of-way only if the owner proves to the city that there is no other feasible location for installing the assembly and that installation in the right-of-way will not interfere with traffic or utilities. The city retains the right to approve the location, height, depth, enclosure, and other requisites of the assembly prior to its installation.

4. All permits required by the city to perform work in the right-of-way shall be obtained.

5. A property owner shall, at the request of the city and at the owner's expense, relocate a backflow prevention assembly which encroaches upon any city right-of-way, when such relocation is necessary for street or utility construction or repairs for purposes of public safety.

N. Access to Premises. Authorized personnel of the city, with proper identification and sufficient notice, shall have access during reasonable hours to all parts of a premises and within the structure to which water is supplied. However, if any owner, occupant or person in control refuses authorized personnel access to a premises or to the interior of a structure during those hours for inspection, a reduced pressure principle assembly must be installed at the service connection to that premises.

O. Annual Testing and Repairs. All backflow prevention assemblies installed within the area(s) served by the city shall be tested immediately upon installation, and at least annually thereafter, by a DHS-certified backflow assembly tester. All such assemblies found not functioning properly shall be promptly repaired or replaced at the expense of the owner, occupant or person in control of the premises. In the event an assembly is moved, repaired or replaced, it must be retested immediately.

It is the responsibility of the persons who own the assemblies to have the assemblies tested by a certified backflow assembly tester.

If a backflow assembly has been installed prior to the effective date of the ordinance codified in this section and it is determined by the specialist that the assembly is not required to meet the conditions of this enforcement document, testing of the assembly will not be required. If the plumbing conditions ever change and the assembly is required to meet the conditions stipulated in this enforcement document, it will be the responsibility of the property owner to test and maintain the assembly as stipulated by this enforcement document.

P. Maintenance of Assemblies. Backflow prevention assemblies shall be maintained in accordance with the requirements set out in the OAR, or as amended, and this section. The assembly owner is responsible for protecting their assembly from freezing and vandalism.

Q. Responsibilities of Backflow Prevention Assembly Testers.

1. All backflow assembly testers operating within the city water system service area shall be certified in accordance with all applicable regulations of the DHS.

2. Persons certified as backflow assembly testers shall agree to abide by all requirements of the United States Occupational Safety and Health Administration ("OSHA") and Oregon Occupa-

tional Safety and Health Administration (“OR-OSHA”); and have completed confined space entry training to enter any confined space on behalf of the city water system.

3. It is the responsibility of backflow assembly testers to submit records of all backflow assembly test repairs to the city within 10 days of completing the test.

R. Costs of Compliance. All costs associated with purchase, installation, surveys, testing, replacement, maintenance, parts and repairs of the backflow prevention assembly, and all costs associated with the enforcement of this chapter, are the financial responsibility of the property owner, occupant, or other person in control of the premises.

S. Recovery of Costs. Any water customer violating any of the provisions of this section and who causes damage to or impairs the city water system, including but not limited to allowing contamination, pollution, any other solution or used water to enter the city water system, shall be liable to the city for any expense, loss or damage caused by such violation. The city shall collect the cost incurred by the city for any cleaning, purifying, repair or replacement work or any other expenses caused by the violation from the violator. Refusal to pay the assessed costs shall constitute a violation of this section and shall result in the termination of service.

All costs associated with any disconnect fees resulting from the enforcement of this section are the sole responsibility of the property owner.

T. Termination of Service. Failure on the part of any owner, occupant or person in control of the premises to install a required assembly, have it tested annually and/or to discontinue the use of all cross connections and to physically separate cross connections in accordance with this section is sufficient cause for the discontinuance of public water service to the premises pursuant to OAR 333-061-0070, or as amended. In the case of an extreme emergency or where an immediate threat to life or public health is found to exist, discontinuance or termination of public water service to the premises shall be immediate.

U. Falsifying Information. Any person who knowingly makes any false statement, representation, record, report or other document filed or required to be maintained pursuant to this section,

or who falsifies, tampers with, or knowingly renders inaccurate any backflow assembly, device or method required under this section shall (in addition to civil and/or criminal penalties provided by state law) be subject to the general penalty clause of the city of Philomath’s written program plan. [Ord. 797 §§ 14, 15, 2015; Ord. 761 § 2, 2010; Ord. 625 § 21, 1994.]

13.30.220 Water waste.

Where water is wastefully or negligently used on a customer’s premises, seriously affecting the general service, the city may discontinue the service if such conditions are not corrected within five days after giving the customer written notice. [Ord. 625 § 22, 1994.]

13.30.230 Inspections.

Any inspection or recommendations made by the city or its agents on plumbing or appliances or use of water on the customer’s premises, either as the result of a complaint or otherwise, will be made or offered without charge. [Ord. 625 § 23, 1994.]

13.30.240 Interruptions in service.

The city shall not be liable for damage resulting from an interruption in service. Temporary shutdowns may be resorted to by the city for improvements and repairs. Whenever possible, as time permits, all customers affected will be notified prior to such shutdowns. The city will not be liable for interruption, shortage or insufficiency of supply, or for any loss or damage occasioned thereby, if caused by accident, act of God, fire, strikes, riots, war or any other cause not within its control. There will be no reimbursement or prorating of the water bill due to shutdowns or other variations. [Ord. 797 § 16, 2015; Ord. 625 § 24, 1994.]

13.30.250 Resale of water.

Except by special agreement with the city, no customer shall resell any of the water received from the city, nor shall water be delivered to premises other than those specified in the application for service. [Ord. 625 § 25, 1994.]

13.30.260 Penalty.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$500.00, or by

imprisonment in jail for a period not exceeding 100 days, or by both such fine and imprisonment. [Ord. 625 § 26, 1994.]

13.30.270 Constitutionality and savings clause.

Should any provision, section, sentence, clause or phrase of this chapter, or the application of the same to any person or set of circumstances, be for any reason held to be unconstitutional, void, invalid, or for any reason unenforceable, the validity of the remaining portions of this chapter or its application to any other persons or circumstances shall not be affected thereby, it being the intent of the city in adopting and approving this chapter 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. [Ord. 761 § 3, 2010.]

13.30.280 Unauthorized connections.

No person shall construct, use, maintain, or allow the continued existence of an unauthorized connection to the water system. Existing unauthorized connections are expressly prohibited, without limitation, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. [Ord. 797 § 17, 2015.]

13.30.290 Requirement to eliminate unauthorized connections.

The director may require, by written notice, that a person responsible for an unauthorized connection to the water system immediately, or by a specified date, comply with the requirements of this chapter to eliminate the connection, regardless of whether or not the connection to it had been established or approved prior to the effective date of the ordinance codified in this chapter.

The removal of the connection shall be at the user's expense. [Ord. 797 § 17, 2015.]

13.30.300 Notice of violation.

Whenever the director finds that a person has violated a provision of this chapter, the director may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- A. The elimination of unauthorized connections; and
- B. That violating practices or operations cease and desist. [Ord. 797 § 17, 2015.]

13.30.310 Appeal.

Notwithstanding the provisions of PMC 13.30.340, any person receiving a notice of violation under PMC 13.30.300 may appeal the determination of the director. The appeal must be in writing and must be received by the city manager within seven days of receipt of the notice of violation. If requested in writing, a hearing on the appeal shall be scheduled before the city council of the city of Philomath within 30 days of the receipt of the appeal. Thereafter, the city council may render its decision based upon the record of the hearing on the notice of violation, grant an additional hearing to take additional evidence, or conduct a de novo hearing.

The city council, in consultation with the city attorney, shall establish rules and procedures for the conduct of the appeal in order to accord the user minimum due process. The burden of proof, on appeal, shall remain with the city by a preponderance of the evidence. The city council shall affirm, reverse, or modify the findings, conclusions, and requirements of the notice of violation and shall serve its decision, in writing, upon the user. The decision of the city council shall be final. [Ord. 797 § 17, 2015.]

13.30.320 Abatement by city.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or in the event of an appeal under PMC 13.30.310, within three days of the decision of the city council upholding the decision of the director, then the city or a contractor designated by the director is authorized to enter upon the subject private property and take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the city or designated contractor to enter upon the premises for the purposes set forth above. [Ord. 797 § 17, 2015.]

13.30.330 Recovery of abatement costs.

A. Within 30 days after abatement of the condition by city, the director or his designee shall prepare a recap of all costs incurred to abate the condition, including administrative costs.

B. A summary of costs shall be mailed by registered or certified mail to the same person or persons to whom the notice of violation was sent per PMC 13.30.300, or their successors in title, and shall advise of the city's intent to assess said costs against the real property and shall further advise the owner/owners of their right to a hearing before the city council prior to assessment upon receipt by the director, within 15 days of the date of mailing, of a written request for a hearing.

C. If the costs of abatement are not paid to the city within 30 days from the date of the mailing of the summary of costs, said summary shall be presented to the city council and, if the council finds said costs to be reasonable, the council shall pass an ordinance directing that the amount of said costs be entered in the docket of city liens, and upon such entry being made, said costs shall constitute a lien upon the property in question.

D. The lien shall be enforced and shall bear interest at a rate to be determined by the council at the time of the ordinance referred to in subsection (C) of this section. The interest shall commence from the date of entry of the lien in the lien docket and shall have priority over all other liens and assessments to the maximum extent permitted by law. The costs of filing the lien shall be included in the total cost of the lien.

E. An error in the name of the property owner/owners/agents shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property. [Ord. 797 § 17, 2015.]

13.30.340 Summary abatement.

The director is authorized to require summary abatement of any violation of this chapter that constitutes an immediate threat to the environment or the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the director, the city of Philomath is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation

undertaken by the city of Philomath shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking other and further relief authorized under this chapter. [Ord. 797 § 17, 2015.]

13.30.350 Penalties.

A. Any person violating any provision of this chapter shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

B. Any customer who shall continue any violation beyond the time limit provided for in subsection (A) of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding \$2,500 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

C. Any water user 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.

D. Any remedy, including collection, requirement to enter into special contracts, requirements to pay special account deposits, or any other action authorized by any local, state or federal law, is cumulative and not exclusive. [Ord. 797 § 17, 2015.]

13.30.360 Violations deemed a public nuisance.

In addition to the enforcement processes and penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter that is a threat to the environment, public health, safety, or welfare, and is declared and deemed a nuisance, may be summarily abated or restored by the city at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the city. [Ord. 797 § 17, 2015.]

13.30.370 Remedies not exclusive.

Notwithstanding any provision of this chapter to the contrary, the remedies for violations of this

chapter are not exclusive and the city may enforce violations of this chapter and pursue any other legal remedy authorized in this code, or may enforce violations of this chapter through seeking any other legal or equitable remedy. [Ord. 797 § 17, 2015.]

13.30.380 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter. [Ord. 797 § 17, 2015.]

13.30.390 Ultimate responsibility of user.

The standards set forth within this code and promulgated pursuant to the provisions of this code are minimum standards; therefore, these code provisions are not intended and do not imply that compliance with these code provisions by any person or owner/operator of a premises will ensure that devices will function in a manner so that there will be no contamination, cross connection, nor pollution, caused by said person. The owner/operator of a premises has the ultimate responsibility for properly maintaining their plumbing systems and to ensure that cross connections are not created and that backflow prevention devices are tested and maintained in good working order. These code provisions shall not create liability on the part of the city of Philomath, nor any agent, officer or employee thereof, for any damages that result from any cross connection despite reliance on these code provisions or any decision lawfully made. [Ord. 797 § 17, 2015.]

Chapter 13.35

WATER USAGE CURTAILMENT PLAN

Sections:

- 13.35.010 Purpose.
- 13.35.020 Statement of purpose.
- 13.35.030 Water usage curtailment plan.
- 13.35.040 Stage 1 – Short-term supply or distribution system disruptions.
- 13.35.050 Stage 2 – Loss of storage capacity or excessive usage demands.
- 13.35.060 Stage 3 – Prolonged drought conditions.
- 13.35.070 Stage 4 – Total loss of surface water source or systemic catastrophe.
- 13.35.080 Water usage curtailment plan summary.
- 13.35.090 Violation – Penalty.

13.35.010 Purpose.

The city council has adopted a water master plan which recommends that the city prepare a water management and conservation plan. Said plan includes specific actions the city will take to limit water consumption in the event of water shortages or water service difficulties. [Ord. 735 § 1, 2006.]

13.35.020 Statement of purpose.

The 20-year water master plan adopted by the city council during the 2005 session recommended the development of a water conservation and management plan. This water usage curtailment plan is an integral part of that overall conservation and management plan, and is subject to compliance with various state administrative rules. [Ord. 735 § 2, 2006.]

13.35.030 Water usage curtailment plan.

In order to safeguard public health, ensure continued water service to all citizens and to further the effort to preserve the Mary's River Watershed, the city has prepared this water usage curtailment plan. The plan includes four stages of implementation based on the nature and severity of the emergency condition.

The four types of emergency conditions identified for action are: (A) short term supply or distribution system disruptions; (B) loss of storage capacity or excessive usage demands on the sys-

tem; (C) prolonged drought conditions; and (D) total loss of surface water as a source of supply or catastrophic system debilitation.

The following sections shall serve as guidelines for the determination of the significance of various potential emergency conditions, provide for appropriate citywide action in response to the condition level and place the responsibility for any call to action at the appropriate level of authority.

Notification of the existence of any emergency condition, and the response level called for, shall be provided for based on the timeliness of the need for the action called. Said notice may be communicated via any or all of the following forms: local radio broadcast, publication in local papers, by direct mailing, telephone, website or direct canvassing as necessary.

Failure to comply with any emergency response implementation shall result in civil penalties commensurate with the magnitude of the violation and in accordance with city ordinances. [Ord. 735 § 2, 2006.]

13.35.040 Stage 1 – Short-term supply or distribution system disruptions.

A. Definition. Stage 1 water alerts are prompted by any short-term shortage or limitation of water supply, storage or delivery due to a temporary water system failure, mechanical or hydraulic breakdown, major firefighting event or water main break. These may be of either a localized or citywide nature.

B. Duration. Stage 1 alerts generally shall last for a duration of five days or less, depending upon the time needed to correct the problem and/or replenish the reserves.

C. Authority. The public works director and/or public works operations supervisor may issue a Stage 1 water alert upon the determination that a water system condition exists that satisfies the conditions of this stage.

D. Actions.

1. Upon public notification that a short-term Stage 1 water alert exists, city water customers are required to limit water consumption to normal household and drinking water uses only. No car washing or lawn/yard irrigation shall be permitted.

2. Municipal use of water, such as parks and grounds irrigation, water fountains, ornamental use, street cleanings and other extraneous uses

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shall be limited “in like fashion” until the alert is lifted.

E. Termination. Suspension of a Stage 1 water alert shall be at the total discretion of the public works director and/or public works operations manager and shall be based on reservoir water level recovery, correction of the cause, and/or any other factors deemed to be relevant. [Ord. 735 § 2, 2006.]

13.35.050 Stage 2 – Loss of storage capacity or excessive usage demands.

A. Definition. Stage 2 water alerts are prompted by significant losses of available stored water due to prolonged high water system demands. Said demands may typically be caused by periods of extreme water consumption as a result of several consecutive days of extreme high temperatures and/or partial loss of treatment plant production. Extreme water consumption may also be the result of high usage during an extreme cold weather event as water customers allow water flow to occur continuously to prevent freeze damage to piping.

B. Duration. Stage 2 events will (typically) be limited to a period of seven days or less and can usually be lifted once storage reservoirs are refilled and/or the condition causing the high demand abates.

C. Authority. The public works director and/or public works operations supervisor may issue a Stage 2 water alert upon the determination that a water system condition exists that satisfies the conditions of this stage.

D. Actions.

1. All Stage 1 actions shall be required herein.

2. Institutional and commercial water users shall be requested to implement voluntary curtailment of water usage except as is necessary to support ongoing operations.

3. The usage of water to clean, fill and maintain decorative fountains or ponds is prohibited unless the water is reclaimed for said purpose. Swimming pools shall not be filled during Stage 2 water alerts.

4. The use of water for construction, dust control, street or parking lot sweeping, or building wash-down is prohibited.

E. Termination. Suspension of a Stage 2 water alert shall be at the total discretion of the public works director and/or public works operations manager and shall be based on reservoir water level recovery, correction of the cause, and/or any other factors deemed to be relevant. [Ord. 735 § 2, 2006.]

13.35.060 Stage 3 – Prolonged drought conditions.

A. Definition. Stage 3 water alerts are prompted by a shortage of surface water due to prolonged dry weather conditions resulting in a sustained period of below average surface water flow. Typically, such periods also exhibit a corresponding high water usage demand by consumers. Additionally, upstream contamination of surface water may render surface water unusable by the city for unknown periods of time and may also cause a Stage 3 alert.

B. Duration. Stage 3 events can last from as little as one to two days up to several months.

C. Authority. The public works director and/or public works operations supervisor may issue a Stage 3 water alert upon the determination that a water system condition exists that satisfies the conditions of this stage only after consultation with, and approval by, the city manager. Extension of Stage 3 alerts beyond one month must be approved by the city council.

D. Actions.

1. All Stage 1 and Stage 2 actions shall be required herein.

2. Irrigation of landscaping, turf, and ornamental plants for residences shall only be performed if the event duration is determined to last beyond five days and shall be on a rotating basis based on the last digit of the site address. Addresses that are odd-numbered shall water only on odd-numbered days, and even-numbered addresses shall water only on even-numbered days.

E. Termination. Suspension of a Stage 3 water alert shall be at the discretion and judgment of the public works director and/or public works operations manager, with concurrence by the city manager, and shall be based on reservoir water level recovery, impending weather conditions, and/or any other relevant factors. [Ord. 735 § 2, 2006.]

13.35.070 Stage 4 – Total loss of surface water source or systemic catastrophe.

A. Definition. Stage 4 water alerts represent the greatest level of threat to the city and are prompted by a short- or long-term total loss of surface water as a source for any reason and/or a total loss of treatment plant production. Stage 4 water alerts are used to preserve and ration our limited water supply for domestic and drinking water purposes.

B. Duration. Stage 4 events can last from as little as a week up to several months or longer.

C. Authority. The public works director and/or public works operations supervisor may call for a Stage 4 water alert upon the determination that a water system condition exists that satisfies the conditions of this stage only after emergency consultation with, and approval by, the city manager and the city council.

D. Actions.

1. All Stage 1, Stage 2 and Stage 3 actions shall be required herein. Residential metered water rationing may also be implemented if necessary.

2. The use of water from fire hydrants for any use other than fire protection is prohibited.

3. All irrigation of landscape, turf or ornamental plants shall be summarily prohibited for all classes, groups, and types of water users without exception.

4. Commercial, industrial and institutional water users shall be limited to only such water use as is necessary for basic operations on a mandatory basis.

E. Termination. Suspension of a Stage 4 water alert shall be at the discretion and judgment of the public works director and/or public works operations manager, with concurrence by the city manager and council, and shall be based on alternatives to, or resumption of, surface water supply, reservoir water level recovery, and/or any other relevant factors. [Ord. 735 § 2, 2006.]

13.35.080 Water usage curtailment plan summary.

The foregoing is not intended as an exhaustive description of all possible calamities that may be encountered by the city regarding water supply, storage, distribution or use. It is meant to serve as a guideline for how the city and its citizens are expected to respond in emergency situations.

The effort to enumerate various levels of threat is not meant to rank or categorize the importance of any one event over another. All situations and events must be evaluated based on the nature of their respective impact, not only upon the citizenry, but also on the effects to the viability of the watershed as well.

Catastrophic events such as major earthquakes, floods, significant terrorist activity or highly uncharacteristic weather occurrences are beyond the scope of this chapter and shall be dealt with in accordance to county and state emergency management planning.

Actions called for herein may not be the only steps to be undertaken in a crisis situation and other alternatives may be identified as the need is foreseen. Cooperation between the city and citizens will be paramount to the success of this plan and to facilitate an expedient return to our accustomed norms. [Ord. 735 § 2, 2006.]

13.35.090 Violation – Penalty.

Any person violating any provision of this chapter, upon conviction thereof, shall be punished by a fine not exceeding \$300.00. [Ord. 735 § 3, 2006.]

Chapter 13.40**STORM SEWER UTILITY**

Sections:

- 13.40.010 Definitions.
- 13.40.015 Abbreviations.
- 13.40.020 Intent and purpose.
- 13.40.022 Applicability.
- 13.40.024 Responsibility for administration.
- 13.40.030 Establishment of a storm sewer utility fee.
- 13.40.040 Use of storm sewer utility fee.
- 13.40.050 Calculation of storm sewer utility fee.
- 13.40.060 Billings and collection.
- 13.40.070 Enforcement.
- 13.40.080 Permits required.
- 13.40.090 Approval of drawings.
- 13.40.100 Construction to conform to standards.
- 13.40.110 Inspection, approval of construction.
- 13.40.120 Connection to stormwater mains.
- 13.40.130 Extension of stormwater systems.
- 13.40.140 Tapping of manholes.
- 13.40.150 Illegal discharges.
- 13.40.160 Illicit connections.
- 13.40.170 Waste disposal prohibitions.
- 13.40.180 Discharges in violation of industrial or construction activity NPDES stormwater discharge permit.
- 13.40.190 Notification of spills.
- 13.40.200 Requirement to eliminate illegal discharges.
- 13.40.210 Requirement to eliminate illicit connections.
- 13.40.220 Requirement to monitor and analyze.
- 13.40.230 Suspension of access.
- 13.40.240 Damage to the stormwater system.
- 13.40.250 Notice of violation.
- 13.40.260 Appeal.
- 13.40.270 Abatement by city.
- 13.40.280 Recovery of abatement costs.
- 13.40.290 Immediate abatement.
- 13.40.300 Penalties for violations.
- 13.40.310 Violations deemed a public nuisance.
- 13.40.320 Severability.
- 13.40.330 Ultimate responsibility of the discharger.

13.40.010 Definitions.

A. "City" means the city of Philomath, a municipal corporation of the state of Oregon.

B. "City manager" means the person chosen by the Philomath city council to meet the requirements of Section 5.3 of the Philomath Charter or such person as may be designated by the city manager to act in his/her name and capacity.

C. "Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and any subsequent amendments thereto.

D. "Developed property" shall mean any property which has been altered from its natural condition to now include buildings or other structures, private storm drainage facilities, mining, dredging, filling, grading, paving, excavation or drilling operations.

E. "Director" shall mean the city public works director or the person designated by the director.

F. "Discharger" means any person who discharges or causes to be discharged any pollutant into the stormwater system.

G. "Floodplain" means the relatively flat or lowland area adjoining a river, stream, watercourse, lake, or other water body that has been, or may be, inundated temporarily by floodwater.

H. "Impervious surfaces" are those surface areas which either prevent or retard saturation of water into the land surface and cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions preexistent to development. Examples of impervious surfaces include, but are not limited to, rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and gravel, oil, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.

I. "Hazardous materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

J. “Illegal discharge” means any direct or indirect nonstormwater discharge to the stormwater system, except as exempted by PMC 13.40.150.

K. “Illicit connection” is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, that allows an illegal discharge to enter the stormwater system including but not limited to any conveyances that allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the stormwater system and any connections to the stormwater system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or

2. Any drain or conveyance connected from a commercial or industrial land use to the stormwater system that has not been documented in drawings, maps, or equivalent records and approved by the city.

L. “Nonpoint source” means causes of water pollution that are not associated with point sources. Examples include: fertilizer/pesticide runoff; sediment runoff from construction; materials from deicing activities (salt or sand). Nonpoint sources may enter a discrete conveyance system and become a point source.

M. “Nonstormwater discharge” means any discharge to the stormwater system that is not composed entirely of stormwater.

N. “Person” means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

O. “Point source” means any discernible, confined, and discrete conveyance, including but not limited to pipes, ditches, channels, tunnels, or conduits, from which pollutants are or may be discharged to a receiving water.

P. “Pollutant” means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oils; automotive fluids; nonhazardous liquid and solid wastes and yard wastes; any liquid having a temperature that could have an adverse effect

on the receiving streams; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal bacteria and pathogens; dissolved and particulate metals; animal wastes; residues that result from constructing a building or a structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

Q. “Pollution” means the human-made or human-induced alteration of the quality of waters by waste to a degree that unreasonably affects or has the potential to unreasonably affect the waters of the state.

R. “Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

S. “Runoff control” shall mean any measure approved by the director that eliminates stormwater runoff from land surfaces on which development exists.

T. “Stormwater systems” are defined as those natural or manmade facilities used to convey stormwater from public or private places to appropriate destinations with minimal adverse impact. Included in the storm sewer system are drainage ditches, culverts, manholes, pipes, detention ponds, streams, creeks, sumps, storage facilities, curbs, gutters, catchment basins, pump stations and any other facility necessary for the conveyance or treatment of stormwater.

U. “Stormwater” shall mean water from precipitation, surface or subterranean water from any source, drainage and nonseptic wastewater.

V. “Water or waters of the state” means any lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the state of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

W. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently, and if the latter, with some degree of regularity. Watercourses may be either natural or artificial. [Ord. 753 § 1, 2009.]

13.40.015 Abbreviations.

"NPDES" means National Pollutant Discharge Elimination System. [Ord. 753 § 1, 2009.]

13.40.020 Intent and purpose.

A. The intent and purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the city of Philomath through the formation of a storm sewer utility in order to protect and enhance the water quality and natural functions of watercourses and water bodies through the regulation of stormwater discharges; to set forth uniform requirements for direct and indirect contributors to the stormwater system; and to enable the city of Philomath to comply with applicable state and federal laws.

B. In order to fulfill its intent, the city, pursuant to the statutes of the state of Oregon and the powers granted in the charter of the city, the council declares its intent to acquire, own, construct, reconstruct, improve, equip, operate, maintain, and repair storm sewer systems within the city limits and outside the city limits when consistent with city policy, intergovernmental agreements, and in accordance with federal and state law. [Ord. 753 § 1, 2009.]

13.40.022 Applicability.

This chapter shall apply to all water entering the stormwater system generated on any developed and undeveloped lands unless explicitly exempted by PMC 13.40.150. [Ord. 753 § 1, 2009.]

13.40.024 Responsibility for administration.

The director shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the director may be delegated in writing by the director to persons or entities acting in the beneficial interest of or in the employ of the city. [Ord. 753 § 1, 2009.]

13.40.030 Establishment of a storm sewer utility fee.

There is hereby established a storm sewer utility fee for each developed property within the corporate limits of the city. Such fee shall not be imposed in amounts greater than that which is necessary, in the judgment of the council, to provide sufficient funds to properly acquire, construct, equip, operate, maintain, extend and repair the city's stormwater systems. Fees for users shall be based upon impervious surface area and individual mitigation efforts, if any. The council, by resolution, shall establish the amount and effective date of the fee and may, from time to time by resolution, change the amount of the fee. [Ord. 753 § 1, 2009.]

13.40.040 Use of storm sewer utility fee.

Storm sewer utility fees shall be used for the acquisition, construction, operation, maintenance, and repair (including renewal, replacement, and improvement) of the city's storm sewer system. To the extent that the fees collected may not be sufficient to properly meet the expenses of the stormwater system, the cost of same may be paid from other city funds as may be determined by the council. The fees collected by virtue of this chapter shall not be used for general or other governmental purposes of the city except to pay for the equitable share of the cost of accounting, management, and other administrative costs attributable to the stormwater system. [Ord. 753 § 1, 2009.]

13.40.050 Calculation of storm sewer utility fee.

A. The amount of the monthly storm sewer utility fee shall be determined by resolution approved by the council based upon classifications of impervious surface area.

B. Whenever a property owner takes measures to eliminate stormwater runoff from an impervious surface, the director shall, upon written request, determine the percent of stormwater flow which has been eliminated. The director shall authorize a proportional reduction in the storm sewer utility fee for approved runoff control measures. If the property owner establishes, to the satisfaction of the director, that all runoff from a property is disposed of without utilizing public storm drainage facilities either directly or indirectly, there will be

no fees charged under the provisions of this chapter.

C. The storm sewer utility fee shall not be imposed for impervious surfaces for city-owned facilities or for a public street, road, or highway.

D. The person responsible for payment of the storm sewer utility fee may request in writing that the director confirm the calculation of impervious surfaces in the event of a dispute over the amount of the storm sewer utility fee. [Ord. 753 § 1, 2009.]

13.40.060 Billings and collection.

A. The storm sewer utility fee shall be billed and collected with the monthly city utility bill. The bill shall become due and payable at the same time as other city utility fees.

B. Partial payments on utility bills shall be allocated on a prorated basis to each utility balance due.

C. The person responsible for payment of the storm sewer utility fee shall be the person who uses the storm sewer services and, unless otherwise determined, shall be the same person as is responsible for payment of other city utilities. If there are no other city utilities, the person(s) having the right to occupy the property shall be responsible for the payment of the storm sewer utility fee.

D. The finance director shall be responsible for the billing and collection of funds. [Ord. 753 § 1, 2009.]

13.40.070 Enforcement.

Any fee due which is not paid when due, together with interest at the maximum statutory rate from the due date, may be recovered in an action at law by the city. In addition to any other remedies or penalties provided by this chapter or any other city ordinance, failure of any person responsible to pay fees promptly when due shall subject the person responsible to discontinuance of any utility services provided by the city, and the city manager is empowered and directed to enforce this provision against such delinquent users. The employees of the city shall, at all reasonable times, have access to any improved property served by the city for inspection, repair, or the enforcement of the provisions of this chapter. [Ord. 753 § 1, 2009.]

13.40.080 Permits required.

Prior to commencing any work on a building storm drain or public stormwater system, all applicable permits from the city of Philomath and other agencies must be secured and all associated permit fees paid in full. The permits necessary may include, but are not limited to, a plumbing permit, a permit to construct public facilities, and an encroachment permit. The permit shall set forth at what point the connection is to be made, the location, size of facility, type of construction, and other details as the director or his/her designee may reasonably require. [Ord. 753 § 1, 2009.]

13.40.090 Approval of drawings.

Drawings for all public stormwater systems shall be approved by the director or his/her designee prior to construction. Unless otherwise approved by the director, such drawings shall conform to applicable stormwater system master plans as well as city of Philomath public works design standards. Such approval shall be required in addition to any other approval required by state law. [Ord. 753 § 1, 2009.]

13.40.100 Construction to conform to standards.

All public stormwater systems, whether publicly or privately constructed, shall conform to city of Philomath public works design standards requirements, materials, and workmanship. Failure to meet tests for performance and workmanship shall be grounds for refusal of acceptance by the city. Permits to connect to stormwater systems that have not been accepted will not be issued until the system has been approved and accepted. [Ord. 753 § 1, 2009.]

13.40.110 Inspection, approval of construction.

Reasonable notice and access shall be given to allow inspection of all work in connection with the construction or reconstruction of any public stormwater facilities. Use of the stormwater facilities will not be allowed until the building storm sewer and the public improvement receive final approval. [Ord. 753 § 1, 2009.]

13.40.120 Connection to stormwater mains.

Piped storm drain connections shall be made only to the single wye branch designated for use by the connecting property. If no wye is available, connection shall be made by tapping the stormwater main line in accordance with city of Philomath public works design standards and only after securing all necessary permits and paying all required permit fees. [Ord. 753 § 1, 2009.]

13.40.130 Extension of stormwater systems.

The following rules shall apply to all stormwater system extensions:

A. The minimum size of stormwater mains or other stormwater system components to be installed shall be in conformance with the most recent version of the city of Philomath public works design standards where a larger size is not needed to provide an adequate system, conform with the size of the existing system, meet future needs, or conform to the size specified by the city of Philomath's stormwater system facility plan.

B. All stormwater system facilities serving more than one property shall be public, installed in public rights-of-way or public utility easements. The normal routing for stormwater system extensions shall be in a dedicated right-of-way.

C. All stormwater system extensions shall extend to the extreme property line of the development or lot. If the property has excess frontage on the right-of-way and only partial development is to occur, then some consideration may be given to shortening the initial extension, provided sufficient assurance is given to ensure the completion of the extension at the time other development occurs. Where systems are being extended into the interior of a property or development, the systems shall be extended through to the boundaries of the property at all such points as shall be needed to provide current or future service to adjacent properties. [Ord. 753 § 1, 2009.]

13.40.140 Tapping of manholes.

Tapping of building storm drains directly into manholes is prohibited except where shown in construction drawings that have been approved by the director or his/her designee. [Ord. 753 § 1, 2009.]

13.40.150 Illegal discharges.

No person shall cause any pollutant to be discharged to any waters of the state or cause any pollutant to be placed in a location where such pollutant is likely to escape or be carried into the stormwater system and by said stormwater systems into the waters of the state.

The commencement, conduct, or continuance of any illegal discharge is prohibited except as described as follows:

The prohibition shall not apply to any nonstorm discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the state of Oregon under the authority of the Federal Environmental Protection Agency; provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided the written approval has been granted by the city of Philomath for any discharge to the stormwater system. [Ord. 753 § 1, 2009.]

13.40.160 Illicit connections.

No person shall construct, use, maintain, or allow the continued existence of an illicit connection to the stormwater system. Existing illicit connections are expressly prohibited, without limitation, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. [Ord. 753 § 1, 2009.]

13.40.170 Waste disposal prohibitions.

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, maintained, or kept in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the stormwater system, or waters of the state, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. [Ord. 753 § 1, 2009.]

13.40.180 Discharges in violation of industrial or construction activity NPDES stormwater discharge permit.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit

shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the director prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause. [Ord. 753 § 1, 2009.]

13.40.190 Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials that is resulting in or may result in illegal discharges or pollutants discharging into stormwater, the stormwater system, or waters of the state, said person shall take all necessary steps to ensure the discovery, immediate notification, containment, and cleanup of such release.

A. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the public works department immediately in person or by telephone. Notification of the emergency response agencies or the public works department does not relieve the discharger of their responsibility to also notify appropriate state and federal agencies. The public works director or his/her designee shall be permitted access to the property where the spill originated at any time he/she feels is appropriate to monitor and inspect the progress being made to eliminate the illegal discharge.

Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city of Philomath public works director within five business days of the original notice. The notice shall include a detailed written statement submitted by the discharger describing the causes of the discharge, measures taken to mitigate the spill, and the measures taken to prevent any future occurrence.

If the discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to

prevent its recurrence. Such records shall be retained for at least three years.

B. The person responsible for the discharge of pollutants or hazardous materials to the environment shall be responsible for all cleanup costs. All related city expenses including, but not limited to, costs for identification, hazard assessment, and containment shall also be fully reimbursed.

C. In general, reimbursement costs are those incident costs that are eligible, reasonable, necessary, and allocable to the incident. Costs allowable for reimbursement may include, but are not limited to:

1. Disposable materials and supplies provided, consumed and expended specifically for the purpose of mitigating the incident for which reimbursement is being requested;

2. Compensation of the employees for the time devoted specifically to the incident;

3. Rental or leasing of equipment used specifically for the incident;

4. Replacement costs for equipment or property owned by the city that is contaminated or damaged beyond reuse or repair;

5. Decontamination of equipment that was used during the incident;

6. Special technical services required for the incident; and

7. Laboratory expenses for the purpose of analyzing samples taken during the incident. [Ord. 753 § 1, 2009.]

13.40.200 Requirement to eliminate illegal discharges.

The director may require, by written notice, that a person responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges. [Ord. 753 § 1, 2009.]

13.40.210 Requirement to eliminate illicit connections.

The director may require, by written notice, that a person responsible for an illicit connection to the stormwater system immediately, or by a specified date, comply with the requirements of this chapter to eliminate the connection, regardless of whether or not the connection or discharges to it had been

established or approved prior to the effective date of the ordinance codified in this chapter.

If, subsequent to eliminating a connection found to be in violation of this chapter, the responsible person can demonstrate that an illegal discharge will no longer occur, said person may request city approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense. [Ord. 753 § 1, 2009.]

13.40.220 Requirement to monitor and analyze.

The director may require, by written notice, that any person engaged in any activity and/or owning or operating any facility that may cause or contribute to stormwater pollution, illegal discharges, and/or nonstormwater discharges to the stormwater system or waters of the state, to undertake at said person's expense such monitoring and analyses and furnish such reports to the city of Philomath as deemed necessary to determine compliance with this chapter. [Ord. 753 § 1, 2009.]

13.40.230 Suspension of access.

The city of Philomath may, without prior notice, suspend access to the stormwater system when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, to the stormwater system, or waters of the state.

If the violator fails to comply with a suspension order, the city of Philomath may take such steps as deemed necessary to prevent or minimize damage to the stormwater system, prevent or minimize danger to the environment, or to prevent or minimize danger to persons. [Ord. 753 § 1, 2009.]

13.40.240 Damage to the stormwater system.

When a discharge causes obstruction, damage, or other impairment to the stormwater system, the director may assess a charge against the discharger for the work required to clean or repair the facility. If the discharger fails to pay said charge, the costs to clean or repair the facility may be assessed against the property pursuant to PMC 13.40.280. [Ord. 753 § 1, 2009.]

13.40.250 Notice of violation.

Whenever the director finds that a person has violated a provision of this chapter, the director may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

A. The performance of monitoring, analyses, and reporting;

B. The elimination of illicit connections or illegal discharges;

C. That violating discharges, practices, or operations cease and desist; and

D. The implementation of source controls or treatment best management practices. [Ord. 753 § 1, 2009.]

13.40.260 Appeal.

Notwithstanding the provisions of PMC 13.40.290, any person receiving a notice of violation under PMC 13.40.250 may appeal the determination of the director. The appeal must be in writing and must be received by the city manager within seven days of receipt of the notice of violation. If requested in writing, a hearing on the appeal shall be scheduled before the city council of the city of Philomath within 30 days of the receipt of the appeal. Thereafter, the city council may render its decision based upon the record of the hearing on the notice of violation, grant an additional hearing to take additional evidence, or conduct a de novo hearing.

The city council, in consultation with the city attorney, shall establish rules and procedures for the conduct of the appeal in order to accord the discharger minimum due process. The burden of proof, on appeal, shall remain with the city by a preponderance of the evidence. The city council shall affirm, reverse, or modify the findings, conclusions, and requirements of the notice of violation and shall serve its decision, in writing, upon the discharger. The decision of the city council shall be final. [Ord. 753 § 1, 2009.]

13.40.270 Abatement by city.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or in the event of an appeal under PMC 13.40.260, within 10 days of the decision of the city council upholding the decision of the director, then the city or a contractor designated by the

director is authorized to enter upon the subject private property and take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the city or designated contractor to enter upon the premises for the purposes set forth above. [Ord. 753 § 1, 2009.]

13.40.280 Recovery of abatement costs.

A. Within 30 days after abatement of the condition by city, the director or his designee shall prepare a recap of all costs incurred to abate the condition, including administrative costs.

B. A summary of costs shall be mailed by registered or certified mail to the same person or persons to whom the notice of violation was sent per PMC 13.40.250, or their successors in title, and shall advise of the city's intent to assess said costs against the real property and shall further advise the owner/owners of their right to a hearing before the city council prior to assessment upon receipt by the director, within 15 days of the date of mailing, of a written request for a hearing.

C. If the costs of abatement are not paid to the city within 30 days from the date of the mailing of the summary of costs, said summary shall be presented to the city council and, if the council finds said costs to be reasonable, the council shall pass an ordinance directing that the amount of said costs be entered in the docket of city liens; and upon such entry being made, said costs shall constitute a lien upon the property in question.

D. The lien shall be enforced and shall bear interest at a rate to be determined by the council at the time of the ordinance referred to in subsection (C) of this section. The interest shall commence from the date of entry of the lien in the lien docket and shall have priority over all other liens and assessments to the maximum extent permitted by law. The costs of filing the lien shall be included in the total cost of the lien.

E. An error in the name of the property owner/owners/agents shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property. [Ord. 769 § 1, 2010; Ord. 753 § 1, 2009.]

13.40.290 Immediate abatement.

The director is authorized to require immediate abatement of any violation of this chapter that constitutes an immediate threat to the environment or the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the director, the city of Philomath is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the city of Philomath shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking other and further relief authorized under this chapter. [Ord. 753 § 1, 2009.]

13.40.300 Penalties for violations.

A. Any person violating any of the provisions of this chapter shall upon conviction thereof be punished by a fine of not less than \$50.00 or more than \$250.00 for each offense. A separate offense shall be deemed committed on each day or part of each day during which a violation occurs or continues.

B. The city may commence an action for appropriate legal and/or equitable relief in the appropriate local court to enforce the penalty or remedy imposed by the city hereunder. [Ord. 753 § 1, 2009.]

13.40.310 Violations deemed a public nuisance.

In addition to the enforcement processes and penalties herein before provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter that is a threat to the environment, public health, safety, or welfare, and is declared and deemed a nuisance, may be summarily abated or restored by the city at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the city. [Ord. 753 § 1, 2009.]

13.40.320 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause,

sentence, or paragraph of the chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter. [Ord. 753 § 1, 2009.]

13.40.330 Ultimate responsibility of the discharger.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants into the waters of the state caused by said person. This chapter shall not create liability on the part of the city of Philomath, or any agent or employee thereof for any damages that result from any discharger's reliance on this chapter or any administrative decision lawfully made thereunder. [Ord. 753 § 1, 2009.]

