

Chapter 4

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UTILITIES

SEWER REGULATIONS

4.000 Definitions. The following words and phrases when used in sections 4.000 to 4.090, shall have the meanings given to them in this section:

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

Building Drain. That part of the lower horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewers, beginning five feet (1.5 meters) outside the inner face of the building walls.

Building Sewer. The extension from the building drain to the public sewer or other place of disposal.

Combined Sewer. A sewer designed and intended to receive both storm water and non-storm water sewage.

Development. Any man-made change to improved or unimproved real property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Dwelling Unit or DU. That part of a building or structure which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family.

Equivalent Service Unit or ESU. An area of impervious surface which is estimated to place approximately equal demand on the city's storm drainage system as that placed by a single-dwelling unit.

One ESU shall be equal to 2,914 square feet of impervious surface. This figure was obtained through a statistical analysis of impervious area on lots with single-dwelling units within West Linn. This analysis concluded that the average single-dwelling unit contains 2,914 square feet of impervious area.

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

Impervious surface. Any surface area which either prevents or retards saturation of water into the land surface, or a surface which causes water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions. Common impervious surfaces include, but are not limited to, rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas, oiled or macadam surfaces or other surfaces which similarly impede the natural infiltration or increase runoff patterns.

Improved Premises. Any area which the public works director determines has been altered such that the runoff from the site is greater than that which could historically have been expected. "Improved premises" does not include public roads under the jurisdiction of the city, county, state or federal government.

Industrial Wastes.

(1) The liquid wastes from any nongovernmental user of publicly owned treatment works identified in the "Standard Industrial Classification Manual", 1972, Office of Management and Budget, as amended and supplemented under the following divisions:

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(a) Division A--Agriculture, Forestry, and Fishing;

(b) Division B--Mining;

(c) Division D--Manufacturing;

(d) Division E--Transportation, Communications, Electric, Gas, and Sanitary Services;

(e) Division I--Services.

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

Manufactured Home Park. Has the same meaning as the term used in Section 36.030 of the West Linn Community Development Code.

Natural Outlet. Any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

On-site Control System. A storm drainage facility which the public works director has determined prevents the discharge or substantially reduces the discharge of storm water, or nonpoint source pollution into a receiving water or public storm drainage facility.

Open Drainageway. A natural or man-made path, ditch or channel which has the specific function of conveying natural stream water or storm runoff water.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Person Responsible. The owner, agent, occupant, lessee, tenant, contract purchaser or other person having possession of property, or if no person is in possession, then the person in control of the use of property, or in control of the supervision of development on property.

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

Public Sewer. A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Public Works Director. The person or agent designated by the city manager.

Runoff Control. Any measure approved by the public works director by which storm water runoff from impervious surface is controlled.

Sanitary Sewer. A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority, and which is designed and intended to exclude storm water.

Sewage. A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such groundwater, surface water, and stormwater as may be present, including combined sewer flows when authorized by the City. Sewage also includes the separate collection, transportation and treatment of storm water through the storm drainage system.

Sewage Treatment Plant. Any arrangement of devices and structures used for treating sewage.

Sewage Works. All facilities for collecting, transportation, pumping, treating, and disposing of sewage.

Sewer. A pipe or conduit for carrying sewage.

Slug. Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than 5 times the average 24-hour concentration or flows during normal operation.

Storm Drain or Storm Sewer. A sewer designed and intended to carry only stormwater and surface water and drainage.

Storm Drainage Service. The operations of the city's storm drainage system in providing programs and facilities for maintaining, improving, regulating, collecting, and managing storm water quantity and quality within the city's service area.

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Storm Drainage System. Any structure or configuration of ground that is used or by its location becomes a place where storm water flows or is accumulated, including but not limited to pipes, sewers, curbs, gutters, manholes, catch basins, ponds, open drainageways and their appurtenances. "Storm drainage system" does not include the Willamette or Tualatin Rivers or creeks expressly excluded by action of the city.

Storm Water. Water from precipitation, surface or subterranean water from any source, drainage and nonseptic waste water.

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

Watercourse. A channel in which a flow of water occurs, either continuously or intermittently.

[Section 4.000, Definitions, amended by Ordinance No. 1437, effective July 1, 1999.]

4.002 Environmental Services Utility and Fund. There is hereby created the Environmental Services Utility and Fund. The Fund shall be known as the Environmental Services Fund.

[Section 4.002 added by Ordinance No. 1437, effective July 1, 1999.]

4.003 Policy.

(1) The sewerage system for the City shall be known as the Environmental Services Utility. It is composed of the sanitary sewer, storm sewer and combined sewer systems. ORS Chapters 224, 454 and 468B authorize local governments to provide a sewage system which separately, or in combination, collects, transports and treats sanitary and storm waters. The City Council determines that the combination of the previously existing separate sanitary and storm water utilities will result in the

most efficient method of carrying out the authority granted by these provisions.

(2) The fund for the City's sewerage system shall be known as the Environmental Services Fund. All revenue collected from charges imposed under Section 4.005 and 4.072 shall be placed in the Fund. Money in the Fund shall be used for planning, design, construction, regulation, maintenance and administration of the sewage system and providing sewage service, including repayment of indebtedness incurred after the effective date of this provision, and for all expenses of any kind incurred in the operation and management of the Environmental Services Utility and providing sewage service.

(3) Rate increases for the Environmental Services Utility are subject to the provisions of Section 44 of the City Charter. The storm sewer and sanitary sewer systems were separate systems at the time Section 44 was approved by the voters. Section 44 does not prevent the combination of utilities. For the purposes of consideration of rate increases, the Environmental Services Utility is one utility system. Any rate increase for the Environmental Services Utility is subject to the provisions of Section 44 as a single utility system.

[Section 4.003 added by Ordinance No. 1437, effective July 1, 1999.]

4.005 Use of Public Sewers Required-- Subsurface Disposal Systems.

(1) All premises on which there is located any building, structure, mobile home, motor home, vacation trailer, or any other facility containing sinks, water closets, bathtubs, showers, or any device for receiving sewage and/or waste water shall be connected to the city sanitary sewer system in all cases where such sewers are adjacent to, or within 200 feet of, such premises. Connection to the sanitary sewer shall not be required of any motor home, vacation trailer, or camper which is parked on the premises for storage only. All existing

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premises located adjacent to or within 200 feet of a city sanitary sewer at the time of enactment of the ordinance codified in sections 4.000 to 4.060 shall connect to said sanitary sewer within 90 days of receiving written notice from the city manager to connect to said sanitary sewer.

(2) No cesspools, septic tanks, subsurface disposal field, leaching bed, or wet wall shall be installed or utilized for the purpose of disposal of sewage or waste water from any premises which are adjacent to, or within 200 feet of, a city sanitary sewer.

(3) (a) Properly designed and approved subsurface disposal systems may be approved for installation where premises to be served are not adjacent to, or within 200 feet of, a city sanitary sewer.

(b) Complete detailed plans and specifications shall be submitted with each application for a permit for a subsurface disposal system. These plans and specifications shall include, as a minimum, the following information:

(i) Topographic map of the lot or parcel showing existing elevations, drainage channels and/or drainage patterns, together with a detailed, scaled, plot plan showing all existing or proposed and detailed layout of the proposed subsurface disposal system;

(ii) A valid permit, issued by the Oregon State Department of Environmental Quality, or the County Public Works Department.

(4) All permits issued for installation of subsurface disposal systems subsequent to the enactment of the ordinance codified in sections 4.000 to 4.060 shall be granted under the express condition and agreement, that, within 90 days following the installation of sanitary sewers adjacent to, or within 200 feet of, the premises, the use of such subsurface disposal system

shall be discontinued and the premises connected to the sanitary sewer. Abandonment of the subsurface disposal systems shall be in accordance with the provisions of section 4.060 of this code.

(5) (a) No storm water including drainage from roof drains, area or driveway drains, swimming pools, catch basins or storm sewers, springs, or any other source other than normal plumbing devices, shall be connected to or allowed to enter any sanitary sewer without prior approval by the City for that sewer to become a combined sewer.

(b) Basement drains may be connected to sanitary sewers provided there is no excess water in such basement and such drain shall receive only that water which may seep into a concrete lined basement or such water as may be used for cleaning such basement.

(6) (a) No person, firm, or corporation shall install, construct, or lay any sanitary sewer pipe connecting to the city sanitary sewer system, or install, construct, or utilize any subsurface disposal system, without first making proper application, paying the required fee, and receiving a duly authorized permit from the city.

(b) Issuance of such permit, and all installations, authorized thereby, shall be in full conformance with all requirements of sections 4.000 to 4.060 and all other applicable ordinances, rules, and regulations of the city, and rules and regulations of the Oregon State Plumbing Code. No portion may be covered prior to approval by the city.

(7) No matter, material, or substance other than sewage, shall be permitted to enter the sanitary sewer system, and no matter, material, or substance of any kind shall be deposited in any manhole or cleanout except such cleaning or flushing materials or substances as may be authorized or directed by the city manager. No commercial, manufacturing, or processing wastes and no septic tank or cesspool contents or effluent shall be placed in any sani-

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tary sewer system, unless a permit therefor shall have been first obtained from the city. Such permit will be issued only under conditions, and for such materials, as may be designated by the city.

(8) Any existing private sewer line or house service line connecting to any city sanitary sewer and which is deemed to be a hazard to public health due improper construction, deterioration, lack of repair and maintenance, or from any other cause shall, upon determination of the existence of such hazard by the city manager, be repaired as directed by the city manager. Such repairs shall be completed within 30 days of the date of delivery to the owner or occupant of the property of written notice to make the repairs.

(9) Any subsurface disposal system which is found to be malfunctioning as determined by the county soil scientist, D.E.Q., or the city manager, shall be repaired by the owner or occupant of the property within 30 days of delivery of written notice to make such repairs. All premises which are determined to have a malfunctioning subsurface disposal system, and are adjacent to, or within 200 feet of, a city sanitary sewer, shall be connected to said sanitary sewer within 90 days of receiving written notice from the city manager to connect to said sanitary sewer, and the subsurface disposal system shall be abandoned in accordance with the provisions of section 4.060 of this code.

(10) (a) Any person, firm or corporation desiring to obtain a permit to connect to the sanitary sewer system or to install a subsurface disposal system shall make written application therefor to the city.

(b) Such application shall be accompanied by a connection fee and in an amount conforming to the connection fee required by the Tri-City service district at the time of the application for a sewer connection.

(c) The Tri-City Service District is a service district under the jurisdiction of the Clackamas County Commission, which has

the authority to establish sewer connection fee and sewer service charge within the city.

(d) The collection of the connection fee by the city is not to be construed as constituting the imposition of that fee by the city. Collection by the city occurs only for the purpose of providing convenient administration for the benefit of applicants.

(e) In the event of future revisions in the equivalent service unit connection fee and/or the sewer service charges by the Tri-City Service District, applications for sewer connections submitted after the effective date of such revised equivalent sewer connection unit fee and sewer service charges incurred after the effective date of such revised sewer service charge shall be charged the then prevailing connection fee and/or sewer service charge.

(11) The sewer service charge schedule established for the Tri-City Service District by the Clackamas County Commission is established as the sewer service charge for the city with such changes being effective on the effective date of the adoption of the Clackamas County Commission orders regarding establishment and revision of such sewer service charges. The Tri-City sewer service charge is the charge passed through to the city for sewage treatment.

(12) Any sewer service charges within the city which are above and in addition to the pass through rates charged by the Tri-City Service District, as established by the Clackamas County Commission, may be set by resolution of the City Council. The additional city charge may not increase by more than 5% in any calendar year without voter approval. Any request for an additional charge increase shall be referred to the Utility Advisory Board for consideration and recommendation to the City Council. The rates for sewer service charges and rates for storm drainage fees established by §4.072(2)(d) may be considered separately or in combination. The sum total increase that results from separate or combined consideration is the increase for the

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Environmental Service Utility system for the purpose of the 5% limitation of Section 44 of the City Charter. If considered separately the combined rate increase shall not exceed 5% in any calendar year without voter approval. If the Utility Advisory Board fails to refer a recommendation to the Council within sixty (60) days of receipt of the request for consideration, the Council may consider the request without a Utility Advisory Board recommendation.

(13) Reduced Sewer Service Charges for Low Income Citizens.

(a) Reduced sewer service charges shall be made available to low income citizens meeting the eligibility requirements pursuant to section 4.155.

(b) This section shall in no way limit any similar reduction in sewer service charges by the Tri-City Service District for its portion of the rates.

[Amended by Ordinance No. 1437, effective July 1, 1999; amended by Ordinance No. 1468, effective March 16, 2001.]

4.010 Discontinuance of Sewer Service by Customer.

(1) Whenever any water customer wishes to have their sewer service discontinued for a period not less than fifteen days, the customer shall apply in writing to the water office and pay their account balance in full. Water service will be turned off and turned on again at no charge to the customer and any unbilled charges for sewer services shall be prorated, based on the actual days of service provided during the billing cycle.

(2) In the event a water customer wishes to have their sewer service discontinued for a period less than fifteen days, the customer shall apply in writing to the water office, pay their account balance in full and pay a \$20 service charge. Any unbilled charges for sewer services shall be prorated, based on actual days of service provided during the billing cycle.

(3) Water service will not be turned off and turned on again without writ-

ten notice and receipt of payment as prescribed in this section.

4.015 Responsibility for Sewer Charges, Delinquent Payments, Water Shut Off for Nonpayment, Security Deposit Required and Charge for Nonsufficient Funds.

(1) The customer shall be responsible for all charges for sewer service.

(2) Whenever any sewer charge is not paid when due, the water department may discontinue service by shutting off water service for nonpayment. Water shall not be returned to service until the customer pays their account balance in full and a \$30 service charge is paid. Upon receipt of these payments at the water office during regular office hours, the customer's water service will be restored by the city during regular working hours. Written notice for discontinuing water service for nonpayment of charges shall be given to the customer by regular mail, or by posting a notice on the premises at least ten days in advance of the shut off. The notice shall state that if the charges are disputed, the responsible customer may request an informal conference with the city manager or his/her designee. Such request must be received no later than two days prior to the scheduled shut off date.

(3) The city may require security (cash) deposits prior to providing, or to continue providing, sewer service to any customer. The amount of the security deposit may not be less than one, or more than four months minimum billing charges. In lieu of a deposit, the city may accept a signed agreement from the property owner (whether the customer or not) stating that they will be ultimately liable for any and all charges for services provided to the premises, and that the city may use a lien as one method for securing payment if the charges are not paid. However, the city may not require a property owner to sign such an agreement. If the property owner elects to authorize the use of a lien on real

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property to secure payment of charges in lieu of a security deposit, all sewer charges shall be a lien against the premises served from and after the date of billing. The entry of charges on the city's ledgers or other records pertaining to its lien shall be made accessible for inspection by anyone interested in ascertaining the amount of such charges against the property. Whenever a bill for services remains unpaid, the lien hereby created may be foreclosed in the manner provided for by ORS 223.610, or in any other manner provided by law or city ordinance.

(4) When a customer's check is returned for nonsufficient funds, the City shall charge a fee in an amount to be set by resolution of the City Council.

[Section 4.015(4) amended by Ordinance No. 1492, adopted December 18, 2002.]

4.020 Prohibited Actions.

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

(2) It is unlawful, to discharge to any natural outlet within the city, or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of sections 4.000 to 4.060.

(3) Except as herein provided, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

4.025 Private Sewage Disposal.

(1) Where a public sanitary sewer is not available under the provisions of sections 4.000 to 4.060, the building sewer shall be connected to a private sewage

disposal system complying with the provisions of sections 4.000 to 4.060.

(2) The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Environmental Quality of the state. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than twenty thousand square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

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

(4) No statement contained in this section shall be construed to interfere with any additional requirements which may be imposed by the Department of Environmental Quality, county soil scientist, or the city.

4.030 Building Sewers and Connections.

(1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.

(2) There shall be three classes of building sewer permits: For single-family residential service; for service to multifamily residential buildings; and for commercial establishments. In any case, the owner or his agent shall make application on a special form furnished by the city.

(3) The permit application shall be supplemented by any plans, specifications, or other information considered pertinent by the city. A permit and inspection fee shall be as provided in section 4.005, subsection (10).

(4) All costs and expense incident to the installation and connection of the building sewer shall be borne by the applicant. The applicant shall indemnify the city

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from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(5) A separate and independent building sewer shall be provided for every building, except where otherwise approved by the city.

(6) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the city, to meet all requirements of sections 4.000 to 4.060.

(7) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city and state.

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

(9) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of stormwater runoff of groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer without prior written approval from the City to create a combined sewer.

(10) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or state. All such connections shall be made gastight or watertight. Any deviation from the prescribed procedures and materials must be approved by the city before installation.

(11) The applicant for the building sewer permit shall notify the city when the

building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city.

(12) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work, shall be restored in a manner satisfactory to the city.

[Amended by Ordinance No. 1437, effective July 1, 1999.]

4.040 Application for Building Sewer Permit.

(1) Application for a building sewer permit to connect to a sanitary sewer line shall be made contemporaneously with the application for a building permit for the building or structure which is to be connected to the sanitary sewer line, except when the building sewer permit is to allow connection to a sanitary sewer line from a building or structure already in existence and already serviced by a subsurface disposal system; and further provided, that such building or structure serviced by a subsurface disposal system is not in the process of being enlarged or altered so as to require the issuance of a building permit.

(2) Every building sewer permit shall expire by limitation and become null and void if connection is not made to a sanitary sewer line within one hundred twenty days from the date of issuance of such permit. In the event a building sewer permit so expires, before a connection to a sanitary sewer line is made, the building sewer permit fee for connection to a sanitary sewer line which has previously been paid is not refundable.

(3) Before a connection can be made in the event of the expiration of a building sewer permit, a new sewer permit fee shall be obtained to do so, and the sewer permit fee for connection to a sanitary sewer line shall be one-half the amount

required for a new building sewer permit fee; provided, that no significant changes have been made or will be made in the original plans and specifications for the structure which will be connected to the sanitary sewer line, and provided further that such suspension or abandonment has not exceeded one year from the original issuance of the building sewer permit.

4.045 Maintenance and Damage Responsibility for Private Sewer Lines.

The customer shall be responsible for the maintenance of the private sewer line from the public sewer connection to the premises served. The city shall not be liable for any damage accruing from the failure of a private sewer or of fixtures or appurtenances attached thereto.

4.050 Use of Public Sewers.

(1) No person shall discharge or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, or unpolluted industrial process waters to any sanitary sewer without prior written approval from the City to create a combined sewer.

(2) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the city. Industrial cooling water or unpolluted process waters may be discharged, on approval of the city, to a combined sewer, storm sewer, or natural outlet.

(3) No person shall discharge or cause to be discharged, any of the following described waters or wastes to any public sewers:

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

(b) 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, including but not limited to cyanides in excess of two mg/l or CN in the wastes as discharged to the public sewer;

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

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

(4) No person shall discharge or cause to be discharged, the following described substances, materials, waters, or wastes if it appears likely, in the opinion of the city, that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In determining the acceptability of these wastes, the city will give consideration to such factors as to quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. Substances prohibited are:

(a) Any liquid or vapor having a temperature higher than one 150 degrees Fahrenheit (65 degrees Celsius);

(b) Any water or waste containing fats, gas, grease, or oils, whether emulsified

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or not, in excess of one hundred mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit (0 degrees and 65 degrees Celsius);

(c) Any garbage that has not been property shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the city;

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

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

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

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

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

(i) Materials which exert or cause:

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

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

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

(iv) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein;

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

(5) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in this section, and which, in the judgment of the city, 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:

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewers;

(c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of subsection 4.005(10).

(6) 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

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requirements of all applicable codes, ordinances, and laws.

(7) Grease, oil, and sand interceptors shall be provided when, in the opinion of the city, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the city and shall be located as to be readily and easily accessible for cleaning and inspection.

[Amended by Ordinance No. 1437, effective July 1, 1999.]

4.055 Protection From Damage.

No person shall maliciously, wilfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works.

4.060 Sealing of Abandoned Septic Tanks Required.

It is unlawful or any owner of a septic tank to abandon the tank without first completely pumping same out. All septic tank roofs shall be removed and the tank filled with sand and water settled. If the tank is constructed of concrete and in good condition it need not be pumped out and filled with sand. The concrete roof shall be permanently sealed to the satisfaction of the city engineer or his representative. The septic tank shall be inspected and approved by the city engineer or his representative before the tank is covered.

SURFACE WATER MANAGEMENT

4.062 Storm Sewer Policy.

(1) Pursuant to the general laws of the State of Oregon and the powers granted in the charter of the city, the council does hereby declare its intention to acquire, own, construct, reconstruct, equip, operate, regu-

late and maintain within the city limits of the city, and outside the city limits when consistent with the council's adopted policies or intergovernmental agreements, a storm drainage system, as an integral part of the Environmental Services Utility and also, when authorized by law, to require persons responsible to construct, reconstruct, maintain and extend the storm drainage system.

(2) The improvement of both public and private storm drainage facilities through or adjacent to a new development shall be provided by the person responsible for the development. Said improvements shall comply with all applicable city ordinances, policies and standards.

(3) No portion of sections 4.000 to 4.090 or statement herein or subsequent interpretations or policies shall relieve any property owner of assessments levied against real property for a local improvement project or for abating conditions on the property that violate any provision of this code.

[Amended and renumbered 4.062 by Ordinance No. 1437, effective July 1, 1999. Previously Section 4.555, Policy]

4.063 General Discharge Prohibitions

(1) It is unlawful to discharge or cause to be discharged directly or indirectly into the City storm sewer system and/or a surface water body, any of the following:

- A. Any discharge having a visible sheen;
- B. Any discharge having a pH of less than 6.0 Standard Units (S.U.) or greater than 9.0 (S.U.);
- C. Any discharge that contains toxic chemicals in toxic concentrations;

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- D. Any discharge that contains visible floating solids;
- E. Any discharge which causes or may cause damage to the City's storm sewer system;
- F. Any discharge which causes interference in the City's storm sewer system;
- G. Any discharge which causes or may cause a nuisance or hazard to the City's system, City personnel or the receiving waters.

[Section 4.063 added by Ordinance No. 1453, adopted 06-12-00.]

4.065 City Responsibilities. The City shall manage public storm drainage facilities located on city-owned property, city right-of-way, and city easements through the Environmental Services Utility. Public storm drainage facilities that may be managed by the city include but are not limited to:

- (1) An open drainageway serving a drainage basin within the city;
- (2) A piped drainage system and its related appurtenance which have been designed and constructed expressly for use by the general public and accepted by the city;
- (3) Roadside drainage ditches along unimproved city streets;
- (4) Flood control facilities (levees, dikes, overflow channels, detention systems, retention systems, dams, pump stations, groundwater recharging basins, etc.) that have been designed and constructed expressly for use by the general public and accepted by the city.

[Amended and renumbered 4.065 by Ordinance No. 1437, effective July 1, 1999. Previously Section 4.560, City Responsibilities]

4.070 Private Responsibilities.

(1) Storm drainage facilities to be managed by the person responsible include but are not limited to:

- (a) A storm drainage facility not located on city-owned property, city right-of-way, or city easement;
- (b) A private parking lot storm drain;
- (c) Any roof, footing, or area drain;
- (d) A storm drainage facility not designed and constructed for use by the general public;
- (e) An open drainageway;
- (f) Access drive culverts in the public right-of-way or on private property;
- (g) A detention, retention or treatment system, in the construction of which the city did not financially participate.

(2) Any person responsible shall keep open drainageways on property which they possess or control cleared of debris and vegetation as required by sections 5.400 to 5.430 of this code.

(3) Any person responsible shall maintain non-public storm drainage facilities on property which they possess or control so as to prevent flooding or damage to other property not possessed or controlled by the person responsible and to prevent injury to any person or property not owned or controlled by the person responsible.

(a) The City may require a maintenance agreement to be established for any new and/or existing storm drainage facility as determined necessary by the City Engineer.

(1) The maintenance agreement shall be recorded by the City in the Deed Records of Clackamas County, Oregon.

(4) Any person responsible shall not alter a detention, retention or treatment

system from its original properly functioning condition or intended design, without prior approval of the City Engineer.

(5) The failure of any person responsible to comply with the obligations stated in subsection (1), (2), (3) or (4) of this section is a violation.

(6) The conditions on private property which may result in situations proscribed by subsections (2), (3) or (4) of this section are declared to be a danger to public health and safety and therefore are a nuisance to be abated as provided in sections 5.400 to 5.430 of this code.

[Renumbered 4.070 by Ordinance No. 1437, effective July 1, 1999. Previously numbered Section 4.565; Section 4.070 amended by Ordinance No. 1489, adopted September 18, 2002.]

4.072 Charges for Storm Drainage Service.

(1) Except as the fees may be reduced under subsection (4), the obligation to pay storm drainage fees arises whenever there is a request for storm drainage service for an improved premises. Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the city, the person receiving the city's water utility charge bill shall pay the storm drainage fees set by council resolution. If there is no water service to the property or if water service is discontinued and the property is an improved premises, the storm drainage fees shall be paid by the person responsible for the property. The person required to pay the fee is hereafter referred to as the "customer."

(2) The council may by resolution establish fees and charges necessary to provide and operate a storm drainage system and service. When establishing the fees for storm drainage service the council shall:

(a) Establish a monthly service rate for a structure on an individual lot which contains 1, 2 or 3 dwelling units at the rate set for 1 ESU for each dwelling unit in the structure.

(b) Establish a monthly service rate for all customers not included in paragraph (a), above, which is calculated by dividing the total measured area of impervious surface by 2,914 square feet and rounding the result to the nearest whole number. The rate to be charged is this whole number multiplied by the rate set for 1 ESU.

(c) Establish a monthly service rate for manufactured home parks in the manner established by paragraph (b), above.

(d) Storm drainage fees shall be placed in the Environmental Services Fund. Any rate increase may not exceed 5% in any calendar year without voter approval. Any request for an increase shall be referred to the Utility Advisory Board for consideration and recommendation to the City Council. The rates for sewer service charges established by §4.005(12) and rates for storm drainage fees may be considered separately or in combination. The sum total increase that results from separate or combined consideration is the increase for the Environmental Service Utility system for the purpose of the 5% limitation of Section 44 of the City Charter. If considered separately the combined rate increase shall not exceed 5% in any calendar year without voter approval. If the Utility Advisory Board fails to refer a recommendation to the council within sixty (60) days of receipt of the request for consideration, the council may consider the request without a Utility Advisory Board recommendation.

(3)(a) All improved premises, other than structures on individual lots with 1, 2 or 3 dwelling units, existing on the effective date of this provision, have been individually evaluated and measured through the use of aerial photographs and computer analysis to establish square footage of impervious surface area. The results of this analysis are used in establishing monthly service rates.

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(b) In circumstances where an analysis of impervious surface area does not exist, or is determined to be incorrect, the city may in its discretion use actual measurement or measurements from site plans approved by the city to determine the area of impervious surface.

(4)(a) Upon completion of the on-site credit application package available from the city's Public Works Department, a customer of the utility may request a reduction of the storm water service charge. The service charge will be reduced in relation to the customer's ability to demonstrate that on-site storm water facilities or regional storm water facilities which have been funded by the customer exceed the city's standards for storm water quantity and quality control at that site.

(b) Any reduction given shall continue until the condition of the property is changed or until the public works director determines the property no longer qualifies for the credit given. Upon change in the condition of the property, another application may be made by a person responsible.

(5) Service charge avoidance may be requested through the application package available from the Public Works Department. The criteria for waiver of the service charge as it applies to a specific customer includes total retention of storm water with no effective discharge to the city's storm drainage system (including the Willamette and/or Tualatin Rivers); the petitioner's ability to demonstrate through hydrologic/hydraulic analysis that the site receives no storm drainage service from the city's storm water system; and proof that storm water facilities are constructed and maintained to city standards.

[Amended and renumbered 4.072 by Ordinance No. 1437, effective July 1, 1999. Previously numbered Section 4.570]

4.075 Enforcement. In addition to other lawful remedies, the city manager may enforce the collection of charges

required by sections 4.005 to 4.090 by withholding delivery of water to any improved premises where the storm drain utility charges are delinquent or unpaid.

[Amended and renumbered by Ordinance No. 1437, effective July 1, 1999. Previously numbered Section 4.580]

4.080 Request for Service. A request for water service constitutes a request for storm drainage service and will initiate appropriate billing for storm drainage services. If development of a parcel does not require initiating water service, the creation of an improved premises from which storm water may be discharged into the public storm drainage system shall constitute a request for service and initiate the obligation to pay the fees and charges authorized in sections 4.000 to 4.090.

[Amended and renumbered by Ordinance No. 1437, effective July 1, 1999. Previously numbered Section 4.585]

4.082 Administration Regulations. The City Manager may adopt such rules and regulations as are necessary for the administration of the duties required by sections 4.000 to 4.090 and for the public health, safety and welfare.

[Amended and renumbered by Ordinance No. 1437, effective July 1, 1999. Previously numbered Section 4.590]

4.085 Reduced Storm Drainage Service Charges for Low Income Citizens.

Reduced storm drainage service charges shall be made available to low income citizens meeting the eligibility requirements pursuant to Section 4.155.

[Renumbered by Ordinance No. 1437, effective July 1, 1999; previously numbered Section 4.595; amended by Ordinance No. 1468, effective March 16, 2001.]

4.090 Appeal. Any customer aggrieved by any decision made with regard to the customer's account may appeal to the city manager by filing with the city a written

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request for review no later than 10 days after receiving the decision. The city manager's decision shall be subject to review by the city council upon filing of an appeal within 15 days of the notice of decision.

[Renumbered by Ordinance No. 1437, effective July 1, 1999. Previously numbered Section 4.600]

SIDE SEWER INSTALLATION

4.100 Adoption of Specifications.

Those specifications entitled "Regulations for Installation of Side Sewers," dated June 18th, 1970, attached to Ordinance 710, copies of which are on file in the city clerk's office, and by reference made a part of sections 4.100 to 4.110, shall become part of sections 4.100 to 4.110 as though they were fully set forth herein, and each and every provision therefore be and the same is adopted by reference by the city.

4.105 Council Findings. The council finds that to protect the citizens of West Linn and to assure adequate construction of sewers and the proper attachment thereof to the city sewer system it is immediately necessary to adopt the provisions of sections 4.100 to 4.110 providing for the licensing of sewer contractors.

4.110 Licensing of Sewer Contractors.

(1) No person other than the owner of the property on which the sewer is being installed or a licensed sewer contractor may install side sewers in the city.

(2) As a prerequisite to entering into contracts with the property owners in the city for the installation of side sewers, septic tanks, cesspools, septic tank drain fields and of soliciting such work, a contractor shall apply for and with the approval of the city, be licensed as a qualified sewer contractor.

(3) Before being issued a license, a sewer contractor shall submit to the city a

statement showing his qualifications for performing such work.

(4) A sewer contractor shall execute and deliver a dual obligee surety bond to be approved by the city in the amount of two thousand dollars in favor of the city and the owner of the premises to be served, conditioned that he will perform all sewer work in conformance with the laws of the city and the requirements of other governmental agencies and that he will indemnify and save the city and the owners of the premises harmless against all expenses, damages, costs, and claims arising out of his negligence or unskillfulness in performing such work.

(5) The licensed sewer contractor shall have and keep in full force and effect property damage and liability insurance in the minimum amounts of one hundred thousand dollars property damage and \$100,000.00/\$200,000.00 personal injury while performing any work in the city. A certificate of such insurance shall be filed with the city; said certificate shall indicate that coverage includes sewer excavation, including explosion, collapse, and underground exposure.

(6) The license of any sewer contractor may be revoked upon evidence of his failure to comply with any and all regulations of the city or other governmental agency or for fraud or abuse of owners.

WATER REGULATIONS

4.150 Connection Fees and Meter Charges. The charges for water connections and water meters shall be established by resolution of the West Linn city council.

4.155 Rates.

(1) The monthly water rates shall be established by resolution of the City

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Council. No monthly water rate increase may exceed 5% in any calendar year without first receiving voter approval pursuant to Charter Section 44. The City Council may increase monthly water rates by a percentage of no more than 5% in any calendar year after having considered a recommendation from the Utility Advisory Board for the percentage increase, if one is received. Any request for a monthly rate increase shall be referred to the Utility Advisory Board for consideration and recommendation to the City Council. If the Utility Advisory Board fails to refer a recommendation to the Council within sixty (60) days of receipt of the request for consideration, the Council may consider the request without a Utility Advisory Board recommendation.

(2) Reduced Charges for Low Income Citizens.

(a) There shall be no reduced water service charge for a water meter greater than 3/4" (inch).

(b) The monthly user charge for water service provided to the principal resident or family having a maximum income under the qualifying income limits shall be established by resolution of the City Council.

(c) Pursuant to Section 4.005, Subsection 13, the monthly user charge for sewer service provided to the principal resident or family having a maximum income under the qualifying income limits shall be fifty percent (50%) of the monthly sewer service charge.

(d) Pursuant to Section 4.085, the monthly user charge for storm drainage service provided to the principal resident or family having a maximum income under the qualifying income limits shall be fifty percent (50%) of the monthly storm drain charge.

(e) On July 1st of each year, the qualifying income limits shall be set at one hundred eighty-five percent (185%) of the most recently published poverty guidelines in the Federal Register by the U.S. Department of Health and Human

Resources under authority of 42 U.S.C.9902(2), and shall remain in force until the next July 1st. The qualifying income limit for a single person household shall be based on the federal poverty guidelines for a one-person household. The qualifying income limit for a family shall be based on the poverty guidelines for a two-person household.

(f) In order to be eligible for the reduced user charge: (i) the qualified person must be the person or family to whom the monthly user charge is billed and must have completed and filed with the City an application for the reduced rate on a form supplied by the City; and (ii) the premises to which the services are provided must be the primary residence of the qualified person or family.

(g) An approved application shall entitle the qualified person or family to reduced billings for the remainder of the City's fiscal year (July 1 through June 30) in which the application is approved. At least ten (10) days prior to July 1st of each year, a new application must be submitted to continue reduced billings for the entire subsequent fiscal year.

[Section 4.155, Subsection 2, amended by Ordinance No. 1468 effective March 16, 2001.]

(3) Bulk Water Rates.

(a) A special bulk water rate shall be charged to bulk users, such as commercial cleaning services, commercial spraying businesses, and other commercial bulk users of water recognized by the City. Bulk water users shall pay the rates established by resolution of the City Council.

(b) Each bulk user shall obtain a permit from the Public Works Department, which permit shall be free of charge. To acquire the permit, the applicant's tankers shall be inspected by the city water department personnel for cross connection control devices and valve compliance. The permit shall specify exactly the location of

the hydrant to which connection is permitted along with a tally sheet to log consumption. The permit holder shall submit the tally sheet to the City at the first of each month following usage in the past month for billing purposes.

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

(4) Water meter size requirements.

All services shall have the proper size meters as designated and approved by the public works director on existing and future installations.

[Amended by a vote of the people November 7, 1995; See City Charter, Section 44; Ordinance No. 1366 repealed by a vote of the people November 7, 1995; Ordinance No. 1234 (adopted April 13, 1988) reinstated. Amended by Ordinance No. 1420, by vote of the people 11-03-98, effective 12-01-98; amended by Ordinance No. 1436, by vote of the people 05-18-99, effective July 1, 1999]

4.160 Use of Water. No person supplied with water from the city mains will be entitled to use it for any purpose other than stated in his or her application, or to supply in any way other persons or families.

4.165 Service Pipe Standards. Service pipes of all sizes, within or without the premises, whether for domestic, commercial, or fire protection purposes, must be materials, quality, class, and size as specified by the state plumbing code or regulations of the city.

4.170 Installation of Service Pipes. The installation of all service pipes from the main to the meter shall be made by employees of the city public works department or the city's subcontractor.

4.175 Installation of Fire Services, Larger Diameter Meters, Infill Development and Infill Fire Hydrants,

and Related Minor Main Extensions or System Modifications.

(1) The public works department, or its subcontractor, will be the responsible party for the installation of water services, meters, and necessary appurtenances described in this section. Developers or their contractors or agents will not be allowed to make these connections in the public right-of-way.

(2) If the city designs these installations, design costs will be billed to the developer along with all construction costs pursuant to section 4.150. If the developer designs the installations, the design must be approved in advance by the public works department.

4.180 Service Pipe Maintenance. The service pipe within the premises and throughout its entire length to the water meter or to the property line if the water meter is set behind the property line, must be kept in repair and protected from freezing at the expense of the customer, lessee, or agent, who must be responsible for all damages resulting from leaks or breaks.

4.185 Discontinuance of Water Service by Customer.

(1) Whenever any water customer wishes to have their water service discontinued for a period of not less than 15 days, the customer shall apply in writing to the water office and pay their account balance in full. Water service will be turned off and turned on again at no charge to the customer, and any unbilled charges for services shall be prorated based on the actual days of service provided during the billing cycle.

(2) In the event a water customer wishes to have their water service discontinued for a period of less than 15 days, the customer shall apply in writing to the water office, pay their account balance in full and pay a \$20 service charge. Any unbilled charges for services shall be prorated, based on actual days of service provided during the billing cycle.

(3) Water service will not be turned off and turned on again without written notice and receipt of payment as prescribed in this section.

4.190 Separate Service Pipe Required.

A metered service connection will be required for each single-family residence that is to be supplied with water.

4.195 Prohibited Use of Water.

(1) Water will not be furnished where there are defective or leaking faucets, closets, or other fixtures, or where there are water closets or urinals without self-closing valves, or tanks without self-acting float valves; and when such may be discovered, the supply may be withdrawn.

(2) Water must not be allowed to be wasted by being kept running at any time longer than necessary in its proper use. When such waste is found to exist, the water may be shut off from the premises.

[Section 4.195(2) amended by Ordinance No. 1459, adopted August 28, 2000.]

(3) No new water service will be installed to any structure, building, or premises, until all provisions of the city's building, zoning, subdivision, and sewer ordinances have been complied with. Service may be installed on a temporary basis for use in the construction of a building or structure but such temporary service may be disconnected in the event of failure to comply with all provisions of such ordinances.

4.200 Alteration to or Operation of the System.

The operation and repair of the city's water system, including pipes, valves, pumps, reservoirs, fixtures, etc. is the complete responsibility of the city's public works department. No plumber, contractor, or other person will be allowed to connect to or operate any part of the city's water system up to and including the water meter.

4.205 Water Shut Off--Notice.

The water may at any time be shut off from the mains for repairs or other necessary purposes with notice to be given as hereinafter provided, and the city will not be responsible for any consequent damages. Water for steam boilers for power purposes will not be furnished by direct pressure from the city mains; tanks for holding an ample reserve of water shall always be provided by the customer. Except in the event of emergency repairs, such as necessitated by a broken water line, the West Linn public works department will give at least four hours' notice of shut off to the affected customers.

4.210 Right of Inspection.

Agents of the West Linn public works department may have free access at proper hours of the day to all parts of the building and premises in which water may be delivered from the city mains for the purposes of inspecting the condition of the pipes and fixtures, and the manner in which the water is used.

4.215 Buildings Not Supplied With City Water.

Buildings supplied with water other than that furnished by the city may obtain city water at meter rates, providing that no physical connection shall in any way, directly or indirectly, exist between the private system and the city's water system. When such connection is found to exist, the water will be shut off.

4.220 Meter Test.

The public works department will, upon request, have a meter tested for accuracy. Should a consumer desire the meter to be tested, consumer will be required to make a deposit of \$20 to cover the cost of making such test. The meter will then be tested. Should such meter show an error of over five percent in favor of the West Linn public works department, the \$20 deposit will be refunded to the consumer. If the test of such meter would show an accurate measurement of the water, or should it show an error in favor

of the consumer, the \$20 deposit will be retained by the public works department to cover the expense of such test.

4.225 Violation. Violation of any of the provisions of sections 4.150 to 4.265 shall constitute a class A infraction.

4.230 Compliance Required. The foregoing rules and regulations must be strictly complied with in every instance and water must be paid for by all premises supplied according to the "schedule of water rates."

4.235 Responsibility for Water Charges, Delinquent Payment, Water Shut Off for Nonpayment, Security Deposit Required and Charge for Nonsufficient Funds.

(1) The customer shall be responsible for all charges for water service.

(2) Whenever any water charge is not paid when due, the water department may discontinue service by shutting off water service for nonpayment. Water shall not be returned to service until the customer pays their account balance in full and a \$30 service charge is paid. Upon receipt of these payments at the city water office during regular office hours, the customer's water service will be restored by the city during regular working hours. Written notice for discontinuing water service for nonpayment of water charges shall be given to the customer by regular mail, or by posting a notice on the premises at least 10 days in advance of the shut off. The notice shall state that if the charges are disputed, the responsible customer may request an informal conference with the city manager or his/her designee. Such request must be received not later than 2 days prior to the scheduled shut off date.

(3) The city may require security (cash) deposits prior to providing, or to continue to providing, water service to any customer. The amount of the security deposit may not be less than one or more than four

months minimum billing charges. In lieu of a deposit, the city may accept a signed agreement from the property owner (whether the customer or not) stating that they will be ultimately liable for any and all charges for services provided to the premises, and that the city may use a lien as one method for securing payment if the charges are not paid. However, the city may not require a property owner to sign such an agreement. If the property owner elects to authorize the use of a lien on real property to secure payment of charges in lieu of a security deposit, all water charges shall be a lien against the premises served from and after the date of billing. The entry of charges on the city's ledgers or other records pertaining to its lien shall be made accessible for inspection by anyone interested in ascertaining the amount of such charges against the property. Whenever a bill for services remains unpaid, the lien hereby created may be foreclosed in the manner provided for by ORS 223.610, or in any other manner provided by law or city ordinance.

(4) When a customer's check is returned for nonsufficient funds, the City shall charge a fee in an amount to be set by resolution of the City Council.

[Section 4.235(4) amended by Ordinance No. 1492, adopted December 18, 2002.]

4.240 Permits--Customer's Consent Required. Applications for permits to connect premises with the city water system, or requests to turn off water, or to turn on water, shall, in all cases, be in writing and signed by the customer.

4.245 Limitations on Use. The public works director shall have full power and authority at any time to declare that a shortage of water exists and to prescribe definite hours for use or nonuse of water through hose or other sprinkling devices; such regulations are to be immediately effective and are to be enforced by the pub-

lic works director. Violation of these rules may be because for turning off water.

4.250 Findings and Declaration of a Water Emergency. Upon a finding that the municipal water supply system is incapable of providing an adequate water supply for normal usage due to a prolonged drought, system failure, or any other event, the city council may declare that water usage must be curtailed. The declaration shall include the effective date, the reason for the declaration, and the level of prohibition declared. The city council may include an estimated time for review or revocation of the declaration.

4.255 Levels of Prohibition.

(1) Level I - Limited. The following activities or actions are prohibited under a Level I declaration:

(a) Watering, sprinkling or irrigating lawn, grass or turf; exceptions:

(i) New lawn, grass or turf that has been seeded or sodded 90 days prior to declaration of a water shortage may be watered as necessary until established;

(ii) High-use athletic fields that are used for organized play.

(b) Watering, sprinkling or irrigating flowers, plants, shrubbery, ground-cover, crops, vegetation, or trees except from 6:00 p.m. to 10:00 a.m.;

(c) Washing, wetting down, or sweeping with water, sidewalks, walkways, driveways, parking lots, open ground or other hard surfaced areas; exceptions:

(i) Where there is a demonstrable need in order to meet public health or safety requirements, such as: to alleviate immediate fire or sanitation hazards; for dust control to meet air quality requirements mandated by the Oregon Department of Environmental Quality;

(ii) Power washing of buildings, roofs and homes prior to

painting, repair, remodeling or reconstruction, and not solely for aesthetic purposes.

(d) Washing trucks, cars, trailers, tractors or other land vehicles or boats or other water-borne vehicles, except by commercial establishments or fleet washing facilities which recycle or reuse the water in their washing processes, or by bucket and hose with shut-off mechanism; exceptions:

(i) Where the health, safety and welfare of the public is contingent upon frequent vehicle cleaning, such as: to clean garbage trucks and vehicles that transport food and other perishables, or otherwise required by law. Owners/ operators of these vehicles are encouraged to utilize establishments which recycle or reuse the water in their washing process.

(e) Cleaning, filling or maintaining decorative water features, natural or manmade, including but not limited to, fountains, lakes, ponds and streams, unless the water is recirculated through the decorative water feature. Water features which do not include continuous or constant inflowing water are not included.

(f) Wasting water by leaving unattended hoses running.

(g) Other actions deemed necessary.

(2) Level II - Moderate. The following activities or actions are prohibited under a Level II declaration; where not covered, the Level I restriction still applies:

(a) Watering of any lawn, grass or turf, regardless of age or usage.

(b) Watering, sprinkling or irrigating flowers, plants, shrubbery, ground-cover, crops, vegetation, or trees.

(c) Washing of vehicles other than in establishment which recycles.

(d) Power washing of buildings, regardless of purpose, is prohibited.

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(3) Level III - Severe. In addition to the restrictions in Level II, the following actions may be taken under Level III:

(a) Restriction or limitation of residential usage.

(b) Restriction or limitation of activities which require or may require the need for water supplies. By way of example, this restriction might be placed upon a fireworks display which would otherwise be allowed under state law and local ordinance.

(c) Any restriction which is identified by the director of public works.

(d) Any restriction which is identified by the director of public safety or his designee within the fire department.

4.260 Enforcement.

(1) Warning. Each violation shall receive a warning. The letter of warning shall be in writing, shall specify the violation, may require compliance measures, and shall be served upon the resident either personally, by office or substitute service, or by certified or registered mail, return receipt requested.

(2) Citation. After the resident has received a warning letter, any subsequent violation shall be treated as a civil infraction pursuant to sections 1.215 to 1.260 of the West Linn Municipal Code. No forfeiture assessed for violation of this ordinance shall be less than \$100 nor more than \$500 for each violation.

4.265 Penalties.

(1) First violation - Warning letter.

(2) Second violation of same type - Class C infraction \$100.

(3) Third violation of same type - Class B infraction \$250.

(4) Fourth and subsequent violation - Class A infraction \$500.

(5) Third and subsequent violations under Level III may include water shut-off.

4.270 Amendments, Special Rules, Contracts. The city council shall have the power, at any time, to amend, change, or modify any rule, rate, or charge, and to make special rules, and contracts, and all water service is subject to such power.

WATER SUPPLY CROSS CONNECTION

4.300 Purpose and Scope.

The purpose of sections 4.300 to 4.330 is to protect the public health of water consumers by the control of actual and/or potential cross connections to customers.

4.305 Definitions. West Linn Municipal Code sections 4.300 to 4.330 are amended to read as follows:

Backflow. The flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any sources other than its intended source, and is caused by backsiphonage or backpressure.

Backpressure. An elevation of pressure downstream of the distribution system that would cause, or tend to cause, water to flow opposite of its intended direction.

Backsiphonage. A drop in distribution system pressure below atmospheric pressure (partial vacuum) that would cause, or tend to cause, water to flow opposite of its intended direction.

Backflow prevention assembly (approved). A Reduced Pressure Principle Backflow Prevention Assembly, Reduced Pressure Principle-Detector Backflow Prevention Assembly, Double Check Valve Backflow Prevention Assembly, Double Check-Detector Backflow Prevention Assembly, Pressure Vacuum Breaker Backsiphonage Prevention Assembly, or Spill-Resistant Pressure Vacuum Breaker Backsiphonage Prevention Assembly of a make, model, orientation, and size

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approved by the Department. Assemblies listed in the currently approved backflow prevention assemblies list developed by the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, or other testing laboratories using equivalent testing methods, are considered approved by the Department.

Department. The Oregon Department of Human Services.

Backflow prevention assemblies (type). Any approved assembly used to prevent backflow into a potable water system. The type of assembly used should be based on the degree of hazard, either existing or potential.

Contaminant. Any physical, chemical, biological, or radiological substance or matter in water that creates a health hazard.

Cross connection. Any actual or potential unprotected connection or structural arrangement between the public or user's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substances other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel, or change-over devices, and other temporary or permanent devices through which, or because of which, backflow can occur are considered to be cross connections.

Director. The Director of Public Works of the City of West Linn, or authorized agent.

Degree of Hazard. Either pollution (non-health hazard) or contamination (health hazard) and is determined by an evaluation of hazardous conditions within a system.

Health Hazard (Contamination) An impairment of the quality of the water that could create an actual hazard to the public health through poisoning or through the

spread of disease by sewage, industrial fluids, waste, or other substances.

Non-Health Hazard (Pollution) An impairment of the quality of the water to a degree that does not create a hazard to the public health, but does adversely affect the aesthetic qualities of such water for potable use.

Public Health Hazard. A condition, device or practice which is conducive to the introduction of waterborne disease organisms, or harmful chemical, physical, or radioactive substances into a public water system, and which presents an unreasonable risk to health.

Health Division Officer. The Oregon Department of Human Services, Health Services Officer, or authorized agent.

Potable water supply. Any system of water supply intended or used for human consumption or other domestic use.

Air gap. An approved air gap, or an approved reduced pressure backflow assembly (RPBA) shall be installed where the substance that could backflow is hazardous to health, such as but not limited to; sewage treatment plants, sewage pump stations, chemical manufacturing plants, plating plants, hospitals, mortuaries, car washes, and medical clinics.

4.310 Cross Connections.

The installation or maintenance of an unprotected cross connection which will endanger the water quality of the potable water supply system of the city shall be unlawful and is prohibited. Any such unprotected cross connection now existing or hereafter installed is declared to be a public hazard and the same shall be abated. The control or elimination of cross connections shall be in accord with sections 4.300 to 4.330. The building official is authorized to enforce the provisions of sections 4.300 to 4.330 in the inspection of existing, new, and remodeled buildings.

4.315 Use of Backflow Prevention Assemblies.

(1) No water service connection to any premises shall be installed or maintained by the city unless the water supply is protected as required by state law and regulation and sections 4.300 to 4.330. Service of water to any premises shall be discontinued by the city if an approved backflow prevention assembly required by sections 4.300 to 4.330 or applicable state statute or regulation is not installed, tested or maintained or if it is found that a required backflow prevention assembly has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

(2) The customer's system should be open for inspection and tests at all reasonable times to authorized representatives of the city to determine whether cross connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the director may deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition(s) in conformance with the state and city statutes relating to plumbing and water supplies and the regulations adopted pursuant thereto.

(3) When required, an approved backflow prevention assembly shall be installed on each service line to a customer's water system at or near the property line or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line, except for nondedicated irrigation sprinkler systems or nondedicated fire sprinkler systems. Location of the approved backflow assembly installation in special circumstances is subject to approval by the Director, Plumbing Inspector, or Building Official.

(4) Premise isolation requirements:

(a) For service connections to premises listed or defined in Table 1 (premises Requiring Isolation), the City of West Linn shall ensure an approved backflow prevention assembly or an approved air gap is installed;

(A) Premises with cross connections not listed or defined in Table 1 (Premises Requiring Isolation), shall be individually evaluated. The City of West Linn shall require the installation of an approved backflow prevention assembly or an approved air gap commensurate with the degree of hazard on the premise, as defined in Table 2 (Backflow Prevention Methods);

(B) In lieu of premise isolation, the City of West Linn may accept an in-premise approved backflow prevention assembly as protection for the public water system when the approved backflow prevention assembly is installed, maintained and tested in accordance with the Oregon Plumbing Specialty Code and these rules.

(b) Where Premise isolation is used to protect against a cross connection, the following requirements apply;

(A) The City of West Linn shall:

(i) Ensure the approved backflow prevention assembly is installed at a location adjacent to the service connection or point of delivery;

(ii) Ensure any alternate location used must be with the approval of the City of West Linn and must meet the City's cross connec-

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- tion control requirements; and
- (iii) Notify the premise owner and/or water user, in writing, of thermal expansion concerns.
- (B) The premise owner shall:
- (i) Ensure no cross connections exist between the point of delivery from the public water system and the approved backflow prevention assemblies when these are installed in an alternate location; and
 - (ii) Assume responsibility for testing, maintenance, and repair of the installed approved backflow prevention assembly to protect against the hazard.
- (c) Where unique conditions exist, but not limited to, extreme terrain or pipe elevation changes, or structures greater than three stories in height, even with no actual or potential health hazard, an approved backflow prevention assembly may be installed at the point of delivery; and
- (d) Where the City of West Linn chooses to use premise isolation by the installation of an approved backflow prevention assembly on a one or two family dwelling covered by the Oregon Plumbing Specialty Code, and there is no actual or potential cross connection, the water supplier shall:
- (A) Install the approved backflow prevention assembly at the point of delivery;
 - (B) Notify the water user in writing of thermal expansion concerns; and
 - (C) Take responsibility for testing, maintenance and repair of the
- installed approved backflow prevention assembly.
- (5) The type of backflow prevention installed shall be at least commensurate with the degree of hazard which exists:
- (a) All Oregon Plumbing Specialty Code approved residential multi-purpose fire suppression systems constructed of potable water piping and materials do not require a backflow prevention assembly:
 - (6) Backflow prevention assemblies required by sections 4.300 to 4.330 shall be installed with the approval, of the city.
 - (7) Any protective assembly required by sections 4.300 to 4.330 shall be approved by the director.
 - (8) These assemblies shall be furnished and installed by and at the expense of the customer.
 - (9) It shall be the duty of the customer-user at any premises where backflow prevention assemblies are installed to have operational tests/inspection made at least once per year by an OHS certified backflow assembly tester. For residential landscaping systems, these tests must be performed annually when the sprinkler system is activated which is normally in the spring. Regardless, all systems must be tested no later than July 1st of each year. In those instances where the director deems the hazard to be great enough he may require certified inspections at more frequent intervals. These inspections and tests shall be at the expense of the water user. It shall be the duty of the director to see that these timely tests are made. These assemblies shall be repaired, overhauled or replaced, and re-tested at the expense of the customer-user whenever said assemblies are found to be defective. Records of such tests, repairs and overhaul shall be kept and copies sent to the director.
 - (10) No underground sprinkling system or device will be installed without adequate backflow prevention assemblies.

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(11) Failure of the customer to cooperate in the installation, maintenance, testing or inspection of backflow prevention devices required by sections 4.300 to 4.330 or by state law shall be grounds for the termination of water service to the premises.

4.320 Cross Connection Inspection.

(1) No water shall be delivered to any structure hereafter built within the city of West Linn or within areas served by city water until the same shall have been inspected by the city for possible unprotected cross connections and been approved as being free of same.

(2) Any construction for industrial or other purposes which is classified as hazardous facilities where it is reasonable to anticipate intermittent cross connections, or as determined by the director, shall be protected by the installation of one or more backflow prevention assemblies at the point of service from the public water supply or any other location designated by the city.

(3) Inspections shall be made at the discretion of the director of all buildings, structures, or improvements for the purpose of ascertaining whether cross connections exist. Such inspections shall be made by the city.

4.325 Liability. Sections 4.300 to 4.330 shall not be construed to hold the city responsible for any damage to persons or property by reason of the inspection or testing herein, or the failure to inspect or test or by reason of approval of any cross connections.

4.330 Penalties. Violation of any rule or regulation contained herein shall constitute a class A infraction.

[Sections 4.300 through 4.330 relating to water supply cross connection amended by Ordinance No. 1516, adopted on February 14, 2005.]

[See Tables 1 and 2, Page 4:26 and Page 4:27.]

TABLE 1	
PREMISES REQUIRING ISOLATION BY AN APPROVED AIR GAP OR REDUCED PRESSURE PRINCIPLE TYPE OF ASSEMBLY	
HEALTH HAZARD	
1.	Agricultural (e.g. farms, dairies)
2.	Beverage bottling plants*
3.	Car washes
4.	Chemical plants
5.	Commercial laundries and dry cleaners
6.	Premises where both reclaimed and potable water are used
7.	Film processing plants
8.	Food processing plants
9.	Medical centers (e.g., hospitals, medical clinics, nursing homes, veterinary clinics, blood plasma centers)
10.	Premises with irrigation systems that use the water supplier's water with chemical additions (e.g., parks, playgrounds, golf courses, cemeteries, housing estates)

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11. Laboratories
12. Metal plating industries
13. Mortuaries
14. Petroleum processing or storage plants
15. Piers and docks
16. Radioactive material processing plants and nuclear reactors
17. Wastewater lift stations and pumping stations
18. Wastewater treatment plants
19. Premises with piping under pressure for conveying liquids other than potable water and the piping is installed in proximity to potable water piping
20. Premises with an unapproved auxiliary water supply that is connected to a potable water supply
21. Premises where the water supplier is denied access or restricted access for survey
22. Premises where the water is being treated by the addition of chemical or other additives
* A Double Check Valve Backflow Prevention Assembly could be used if the water supplier determines there is only a non-health hazard at a beverage bottling plant.

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TABLE 2	
BACKFLOW PREVENTION METHODS	
USED FOR PREMISE ISOLATION	
DEGREE OF IDENTIFIED HAZARD	
Non-Health Hazard (Pollutant)	Health Hazard (Contaminant)
BACKSIPHONAGE OR BACKPRESSURE	BACKSIPHONAGE OR BACKPRESSURE
Air Gap (AG)	Air Gap (AG)
Reduced Pressure Principle Backflow Prevention Assembly (RP)	Reduced Pressure Principle Prevention Assembly (RP)
Reduced Pressure Principle-Detector Backflow Prevention Assembly (RPDA)	Reduced Pressure Principle-Detector Backflow Prevention Assembly (RPDA)
Double Check Valve Backflow Prevention Assembly (DC)	
Double Check-Detector Backflow Prevention Assembly (DCDA)	

SYSTEMS DEVELOPMENT CHARGES

4.400 Purpose.

Sections 4.400 to 4.485 are intended to provide authorization for systems development charges for capital improvements pursuant to ORS 223.297-223.314 for the purpose of creating a source of funds to pay for the installation, construction and extension of capital improvements. These charges shall be collected at the time of the development of properties which increase the use of capital improvements and generate a need for those facilities, or as otherwise provided in this code. [Section 4.400 amended by Ordinance No. 1416, enacted September 9, 1998.]

4.405 Scope. The system development charges imposed by sections 4.400 to 4.485 are separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development.

4.410 Definitions.

For purposes of sections 4.400 to 4.485, the following mean:

Actual Project Cost. Cost of materials, land and construction directly attributable to the construction of a capital improvement. These costs include design, construction materials and equipment, labor, short term financing costs (incurred from the date of a City agreement on improvement cost estimate to date of written acceptance of improvement), project management costs (not to exceed 5% of actual project cost), and City administration fees for the project. Land cost is the real market value of fee-title or dedication, as determined by the County Assessor or by a City approved appraiser at the time of application for systems development charge credit. The method of land valuation and type of property interest to be conveyed is at the discretion of the City Engineer. [Definition added by Ordinance No. 1418 enacted September 9, 1998.]

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Capital improvements. Facilities or assets used for:

- (1) Water supply, treatment and distribution;
- (2) Sewage and wastewater collection, transmission, treatment and disposal;
- (3) Drainage and flood control;
- (4) Transportation; or
- (5) Parks and recreation.

City Manager. The person holding the office of City Manager or his/her designee. [Definition added by Ordinance No. 1416 enacted September 9, 1998.]

Development. Conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, or creating or terminating a right of access.

Final Land Use Approval. A director's decision, subdivision, partition, design review or conditional use final decision approving an application which has either not been appealed at the City level, or which is the decision ending City appeal processes. If a City decision has been appealed to the Land Use Board of Appeals, the decision is final as of the date of the City decision which is appealed unless the Board has issued a stay of decision pursuant to ORS 197.845. [Definition added by Ordinance No. 1418 enacted September 9, 1998.]

Final Land Use Approval Modification. A final land use approval made after September 9, 1998, that changes a final land use approval by including new or expanded capital improvements eligible for SDC credits. [Definition added by Ordinance No. 1418 enacted September 9, 1998.]

Future Urban Area. The Future Urban Area (FUA) is the Study Area defined in the Tanner Basin Master Plan adopted by the city in October 1991.

[Definition added by Ordinance No. 1395, August 26, 1996.]

Improvement fee. A fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to section 4.415.

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

Owner. The owner(s) of record title or the purchaser(s) under a recorded sales agreement, and other persons having an interest of record in the described real property.

Parcel of land. A lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.

Permittee. The person to whom a Building Permit, Development Permit, Permit to Connect to the sewer or water system or Right-of-Way Access Permit is issued.

Qualified Public Improvement. A capital improvement that is:

- (1) Required as a condition of development approval;
- (2) Identified in the plan adopted pursuant to section 4.435; and either
 - (a) Not located on or contiguous to property that is the subject of development approval; or
 - (b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular

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development project to which the improvement fee is related.

[Definition amended by Ordinance No. 1395, August 26, 1996.]

Reimbursement fee. A fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to section 4.415.

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

[Definition amended by Ordinance No. 1416 enacted September 9, 1998; amended by Ordinance No. 1395, August 26, 1996.]

4.415 System Development Charge Imposed; Method For Establishment.

(1) Unless otherwise exempted by the provisions of sections 4.400 to 4.485 or other local or state law, effective July 1, 1991, a system development charge is hereby imposed upon all development in the city and the Future Urban Area at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit, or at

the time of connection to a capital improvement.

(2) System development charges shall be established and may be revised by resolution of the city council. [Section 4.415 amended by Ordinance No. 1395, August 26, 1996.]

4.420 Methodology.

(1) The methodology used to establish the reimbursement fee shall consider the cost of the then-existing facilities, prior contributions by then-existing system users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.

(2) The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related and other relevant factors identified by the council.

(3) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be adopted by resolution.

4.425 Authorized Expenditure.

(1) Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

(2) Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of debt for such improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the improvements funded by improvement fees

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must be related to demands created by current or projected development.

(3) A capital improvement being funded wholly or in part from revenues derived from system development charges shall be included in the System Development Charge Funding Project Plan adopted by the city pursuant to section 4.435.

(4) Notwithstanding subsections (1) and (2) of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this ordinance, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge funds.

[Section 4.425 amended by Ordinance No. 1395, August 26, 1996.]

4.430 Expenditure Restrictions.

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

(2) System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements.

4.435 Project Plan.

(1) The council shall adopt by resolution the Systems Development Charge Funds Project Plan. This Plan:

(a) Lists the capital improvements that may be funded with improvement fee revenues; and

(b) Lists the estimated cost and time of construction of each improvement.

(2) In adopting this plan the city council may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section. The city may modify this

project plan at any time through the adoption of an appropriate resolution.

4.440 Collection of Charge.

(1) For all single-family residential development and for multiple family residential, commercial and industrial development not eligible for credit for construction of a capital improvement, the improvement fee portion and the reimbursement fee portion of a systems development charge are payable upon issuance of:

(a) A building permit;

(b) A development permit for development not requiring the issuance of a building permit;

(c) A permit to connect to the water system;

(d) A permit to connect to the sewer system;

(e) A right-of-way access permit.

(2) For multiple family residential, commercial and industrial development eligible for credit for construction of a capital improvement, the improvement fee portion and the reimbursement fee portion of a systems development charge are payable upon issuance of:

(a) A building permit;

(b) A development permit for development not requiring the issuance of a building permit;

(c) A permit to connect to the water system;

(d) A permit to connect to the sewer system;

(e) A right-of-way access permit; unless payment of the improvement fee portion of the systems development charge is delayed pursuant to subsection (3) below.

(3) Payment of the improvement fee portion of a systems development charge for multiple family residential, commercial and industrial development eligible for credit for construction of a capital improvement may be delayed until a date

certain to be set by the City Manager at the time of building permit issuance or not later than 10 days after the issuance of a credit against the improvement fee pursuant to Section 4.455 or 4.457, whichever occurs first. The ability to delay payment of the improvement fee portion of a systems development charge shall only apply to those systems development charges which are for the use of the same type of capital improvement as the improvement being constructed by the multiple family residential, commercial and industrial development. For example, if a commercial development is constructing a water main, payment of the improvement fee portion of the water systems development charge may be delayed. All other applicable systems development charges must be paid pursuant to subsection (2) above. Delay of the payment is subject to the provisions of Section 4.442. [Subsection 4.440(3) amended by Ordinance No. 1395, August 26, 1996.]

(4) The resolution which sets the amount of the charge shall designate the permit or permits to which the charge applies.

(5) If a capital improvement is used, development is commenced, or a connection to a capital improvement is made without an appropriate permit, the systems development charge is immediately payable upon the earliest date that a permit was required.

(6) The City Manager shall collect the applicable systems development charge from the permittee.

(7) The City Manager shall not issue such permit or allow connection until the charge has been paid in full, unless provision for installment payments has been made pursuant to Section 4.445, unless an exemption is granted pursuant to Section 4.450 or unless the permittee has met the requirements of Section 4.442.

[Section 4.440 amended by Ordinance No. 1416 enacted September 9, 1998.]

4.442 Delay of Payment.

(1) A permittee eligible for delay of payment of a systems development charge pursuant to Section 4.440(3) shall make application to delay payment on a form provided by the City, prior to issuance of any permit described in Section 4.440(2). Payment of a systems development charge may only be delayed for the same development which is associated with the construction of the capital improvement for which credit is given.

(2) If a permittee applies for delay of payment of a systems development charge pursuant to Section 4.440(3), the permittee shall provide the City Manager with security acceptable to the City Manager to secure payment of the systems development charge. The security shall be in an amount determined by the City Manager, must be in a form approved by the City Attorney, and must accompany the application described in subsection (1) above. [Section 4.442 added by Ordinance No. 1416 enacted September 9, 1998.]

4.445 Installment Payment.

(1)(a) When a system development charge is due and payable, the permittee may apply for payment in 20 semi-annual installments, secured by a lien on the property upon which the development is to occur or to which the utility connection is to be made, to include interest on the unpaid balance, if that payment option is required to be made available to the permittee by ORS 223.207.

(b) When a system development charge is due and payable, the permittee may apply for payment not to exceed 20 annual installments if the permittee is the City, including any City department, and the development will provide a public service.

[Section 4.445 (1) amended by Ordinance No. 1472, adopted and effective immediately on July 11, 2001.]

(2) The city manager shall provide application forms for installment payments, which shall include a waiver of all rights to

contest the validity of the lien, except for the correction of computational errors.

(3) A permittee requesting installment payments shall have the burden of demonstrating the permittee's authority to assent to the imposition of a lien on the property and that the interest of the permittee is adequate to secure payment of the lien.

(4) The city manager or designee shall docket the lien in the city lien docket and record the lien with the county pursuant to ORS 93.643. From that time, the city shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the council. The lien shall be enforceable in the manner provided in ORS Chapter 223, and shall be superior to all other liens pursuant to ORS 223.230. [Section 4.445(4) amended by Ordinance No. 1395, August 26, 1996.]

4.450 Exemptions.

(1) Structures and uses established and existing on or before the effective date of the resolution which sets the amount of the system development charge are exempt from the charge, except water and sewer charges, to the extent of the structure or use existing on that date and to the extent of the parcel of land as it is constituted on that date. Structures and uses affected by this subsection shall pay the water or sewer charges pursuant to the terms of this ordinance upon the receipt of a permit to connect to the water or sewer system.

(2) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the building code adopted pursuant to section 8.000 of this code, are exempt from all portions of the system development charge.

(3) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of a capital improvement are exempt from all portions of the system development charge.

4.452 Credits.

Credits against a system development charge due pursuant to this Code are available pursuant to the provisions of Sections 4.453, Credit for Existing Use; 4.455, Credit Against Improvement Fee; and 4.457, Capital Improvement Credit. Credits may be obtained and utilized pursuant to Sections 4.452 through 4.457. [Section 4.452 added by Ordinance No. 1405 enacted June 9, 1997.]

4.453 Credit for Existing Use.

When development occurs that is subject to a system development charge, the system development charge for the existing use, if applicable, shall be calculated and if it is less than the system development charge for the use that will result from the development, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge. If the change in the use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required; however, no refund or credit shall be given unless provided for by section 4.455. [Section 4.453 renumbered by Ordinance No. 1395, August 26, 1996; previously designated as Section 4.455 (1).]

4.455 Credit Against Improvement Fee.

(1)(a) When a person provides a capital improvement which is included in the Systems Development Charge Funds Project Plan to the City, and is eligible for a credit through the provisions of this Section and Section 4.457, a credit usable to satisfy systems development charge improvement fee obligations will be issued by the City.

(b) When a permittee seeks a credit for a qualified public improvement the following process and standards shall be applied:

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(i) The maximum credit that will be allowed for a qualified public improvement will be the estimate for the improvement included in the Systems Development Charge Funds Project Plan, unless prior to the beginning of construction on the improvement the permittee and the City meet and establish a different estimate.

(ii) The request for credit shall be filed by the permittee in writing no later than 60 days after written acceptance of the qualified public improvement by the City. The request shall be for not more than the agreed upon estimate or actual project cost, whichever is lower.

(iii) Qualified public improvements which are located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related may be granted credit only for the cost of that portion of such improvement that exceeds the City's minimum standard facility size or capacity needed to serve the particular development project or property. The permittee shall have the burden of demonstrating that a particular improvement qualifies for credit pursuant to this subsection. The estimate required by this Section will be for only the cost of the oversized portion of the improvement.

(c) When a permittee seeks a credit for a capital improvement that is not a qualified public improvement the following process and standards shall be applied:

(i) Prior to beginning of construction on the capital improvement the permittee and the City shall meet and establish the maximum credit that will be allowed for the improvement. In an oversizing situation the restrictions in (b)(iii) apply.

(ii) The request for credit shall be filed by the permittee in writing no later than 60 days after written acceptance of the improvement by the City. The request shall be for not more than the agreed upon estimate or actual project cost, whichever is lower.

(d) When a person seeks a credit pursuant to West Linn Code Section 4.457, the provisions of that Section will be followed.

[Subsection 4.455(1) amended by Ordinance No. 1418 enacted September 9, 1998; Subsection 4.455(1) renumbered 4.453 and amended by Ordinance No. 1395, August 26, 1996.]

(2) The City shall evaluate a request for credit and determine that the amount of the credit to be issued does not exceed actual project cost, except as allowed by this Section.

(a) If a request is related to a qualified public improvement and exceeds the preconstruction estimate the request shall be supported by documentation which establishes by clear and convincing evidence that the amount in excess of the estimate does not exceed actual project cost and that the excess cost was due to factors that could not have been reasonably anticipated by the permittee. The City Engineer shall evaluate the request and make a recommendation to the City Council on the appropriate credit due. The City Council shall consider the City Engineer's recommendation and the justification offered by the requestor and make a determination on the credit due.

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(b) For a request that is not related to a qualified public improvement the City Engineer shall review the documentation submitted to justify the request and determine the amount of credit due.

(c) If the actual project cost, verified by the City Engineer, is less than the preconstruction estimate, the amount of the credit shall be equal to the actual project cost plus one-half of the difference between the pre-construction estimate and the verified actual project cost.

[Subsection 4.455(2) amended by Ordinance No. 1418 enacted September 9, 1998.]

(3) The City shall issue a credit certificate in the amount determined pursuant to subsection (2). The credit certificate shall contain at a minimum the following information:

(a) The name of the person to whom the credit was issued and the project to which the improvement giving rise to the credit is related;

(b) The systems development charge to which the credit may be applied;

(c) The zone or zones in which the credit is useable;

(d) The issue date and the expiration date;

(e) The amount of the credit given;

(f) The original signature of the City Manager and the City Finance Director;

(g) A place for entry of the date of any transfer(s) of the certificate.

[Subsection 4.455(3) amended by Ordinance No. 1418 enacted September 9, 1998.]

(4) The city shall establish a system development charge credit list. Upon issuance of a credit certificate, the city shall enter onto the list the information contained in the certificate. No credit certificate shall be valid or may be redeemed unless there is an entry in the system development charge credit list which corresponds to the information on the

system development charge credit certificate.

(5) Credits given pursuant to this section are:

(a) Valid for a period of 10 years;

(b) Transferrable from the permittee to any other person. The bearer of the system development charge credit certificate issued by the city shall be the owner of those credits. A transferred credit shall contain a notation of the date(s) of transfer;

(c) Not refundable for cash or any other thing of value;

(d) Not available to a permittee who has entered an advanced financing agreement with the city pursuant to Section 3.150 to 3.120;

(e) Not transferable from one type of system development charge to another.

(f) Only useable to satisfy up to one-half of a systems development charge obligation if the credit had been issued for an improvement related to a project which received final land use approval after September 9, 1998, and is (1) tendered to satisfy a systems development charge obligation by a person other than the person to whom the credit was originally issued, or (2) is tendered by the person to whom the credit was originally issued to satisfy a systems development charge obligation that arises from a project other than the project related to the improvement for which the credit was originally issued.

(g) The credit use restriction of subsection (f) does not apply when the credit is tendered by a person other than the person to whom the credit was originally issued to satisfy a systems development charge obligation which arises from the same project for which the credit was originally issued.

(h) The credit use restriction of subsection (f) does apply to credits issued for improvements included in a final land use approval modification. The credit use restriction does not apply to credits issued

for improvements included in the final land use approval prior to the modification if that final land use approval was granted on or before September 9, 1998.

[Subsection 4.455(5) amended by Ordinance 1418 enacted September 9, 1998.]

4.457 Capital Improvement Credit

(1) Upon approval of the city council a person may pay money into a system development charge fund, for the purpose of funding in whole or in part a capital improvement listed on the project plan adopted by the city pursuant to section 4.435, and receive an SDC capital improvement credit in an amount approved by resolution of the city council. The capital improvement credit may be used to satisfy the improvement fee portion of a system development charge for the same fund for which the credit was issued.

(2) The credit certificate shall contain at a minimum the following information:

(a) The name of the person to whom the credit was issued;

(b) The systems development charge to which the credit may be applied;

(c) The zone or zones in which the credit is useable;

(d) The issue date and expiration date of the credit;

(e) The amount of the credit given and the capital improvement which was funded in whole or in part by the person;

(f) The original signature of the City Manager and the City Finance Director.

(g) A place for entry of the date of any transfer(s) of the certificate. [Subsection 4.457(2) amended by Ordinance 1418 enacted September 9, 1998.]

(3) Upon issuance of the capital improvement credit certificate, the city shall enter onto the city's system development charge credit list the information contained in the certificate. No credit certificate shall be valid or may be redeemed unless there is an entry in the system development

charge credit list which corresponds to the information on the system development charge credit certificate.

(4) The capital improvement credit certificate shall have the same characteristics and limitations as provided by Section 4.455(5) with the exception that capital improvement credit certificates may not be redeemed until the capital improvement for which the money was paid and the credit certificate issued has been completed and, if necessary, accepted by the city.

[Section 4.457 added by Ordinance No. 1405 enacted June 9, 1997.]

4.460 Segregation and Use of Revenue.

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

(2) The city manager shall provide an annual accounting, based on the city's fiscal year, of system development charges showing the total amount of system development charge revenues collected for each type of charge and the projects funded from each account.

4.465 Appeal Procedure.

(1) A person aggrieved by a decision required or permitted to be made by the city manager under sections 4.400 to 4.485 or a person challenging the propriety of an expenditure of system development charge revenues may appeal the decision or the expenditure to the city council by filing a written request with the city manager describing with particularity the decision of the city manager or the expenditure from which the person appeals.

(2) An appeal of an expenditure must be filed within two years of the date of

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the alleged improper expenditure. Appeals of any other decision must be filed within 30 days of the date of the decision.

(3) The council shall determine whether the city manager's decision or the expenditure is in accordance with sections 4.400 to 4.485 and the provisions of ORS 223.297 to 228.314 and may affirm, modify, or overrule the decisions. If the council determines that there has been an improper expenditure of system development charge revenues, the council shall direct that a sum equal to the misspent amount shall be deposited within one year of the date of that determination to the credit of the account or fund from which it was spent.

(4) A legal action challenging the methodology adopted by the council pursuant to sections 4.415 and 4.420 shall not be filed later than 60 days after the adoption.

(5) A person may request that the City Council issue systems development charge credits to them as compensation for the impact of the limitation of use of transferred credits provisions of 4.455(5)(f) if;

(a) The person has received the credit for a qualified public improvement;

(b) The credit amount received exceeded the systems development charge obligation for the original development project and all subsequent phases of the original development project; and,

(c) The person has transferred the credits, establishes that the value received for the transferred credit was less than face value, and that the reduction in value was directly caused by the limitation in 4.455(5)(f).

The request pursuant to this subsection must be filed with the City within 30 days of the date of the transfer of the credit. The Council will consider the request and if it finds that the value of the credit has in fact been reduced it shall offer compensation for the reduction in the form of additional credits for the system for which the credit

was originally issued. [Subsection 4.465(5) added by Ordinance No. 1418 enacted September 9, 1998.]

4.470 Prohibited Connection.

No person may connect to or utilize the capital improvements of the city unless the appropriate system development charge has been paid. [Section 4.470 amended by Ordinance No. 1395, August 26, 1996.]

4.475 Effect of Annexation.

The amount of system development charges for any parcel within the Future Urban Area zone will be unaffected by annexation. The charges have been computed based upon the boundary defined in the current methodology. This boundary will remain unchanged by annexation and therefore the related system development charges will remain unchanged. [Section 4.475 amended by Ordinance No. 1395, August 26, 1996.]

4.480 Penalty.

Violation of sections 4.400 to 4.485 is a class A infraction punishable by a fine not to exceed \$500.

4.485 Construction.

The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made a part of sections 4.400 to 4.485.

SOLID WASTE REGULATIONS

4.500 Rental Property Requirements.

The owner of any residence or multifamily building who rents, leases or lets dwelling units for human habitation shall arrange for solid waste, recyclable materials, and yard debris collection in compliance with (1) or (2) below:

(1) Comply with (a) through (c) below:

(a) Provide a sufficient number of receptacles of adequate size to prevent the overflow of solid waste, recyclable materials

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and yard debris from occurring. Receptacles shall be placed in a location accessible to all dwelling units;

(b) Provide for the proper removal and disposal of putrescible materials in manner that does not constitute a nuisance as defined by Section 5.455 of this Code.; and

(c) If the dwelling complex has four (4) or fewer units and the owner is self-hauling tenants' solid waste, provide for the same level and frequency of collection of source-separated recyclable materials and yard debris as are required of the franchisee serving the City's residential customers. Upon request by the City, the owner shall provide proof of compliance with this requirement.

(2) With the agreement of tenant or occupant, allow the tenant or occupant to provide for the proper removal and disposal of solid waste, recyclable materials and yard debris.

4.501 Applicability

The following sections 4.502 to 4.525 apply to customers of the City's solid waste franchisees. Other waste generators who do not receive service from the franchisees are subject to other provisions of this Code, including but not limited to Sections 5.400 to 5.530.

4.502 Definitions

The following words and phrases, when used in sections 4.500 to 4.525, shall have the meanings given to them in this section:

Curbside. The placement of receptacles for pickup no more than five (5) feet from any traveled street or alleyway or as designated by City.

Customer. The generators of solid waste, recyclable materials or yard debris to whom the franchisee provides collection service.

Drop Box. A single receptacle designed for the storage and collection of large volumes of Solid Waste or Recyclable

Materials, which usually is ten (10) cubic yards or larger in size, and which is taken from the storage or collection site on a drop box truck for disposal or processing of the contents of the said single receptacle.

Franchisee. The person granted a franchise, certificate, contract or license issued by the City authorizing it to provide solid waste collection services.

Hazardous waste. The meaning given that term in ORS 466.005.

Medical and infectious waste. The meaning given that term in ORS 459.386 and OAR 093-030, and any successor provisions thereto.

Other solid waste. Solid waste materials including, but not limited to, white goods, bulky waste, tires, and medical and infectious waste.

Physically impaired customer. A customer who is recognized by the Oregon Department of Motor Vehicles as handicapped, or a customer whose ability to move a full solid waste, recyclable materials, or yard debris receptacle is constrained by a medical or physical condition as evidenced by a letter from the customer's physician.

Receptacle. A can, cart, container, or drop box used by the customer to contain solid waste, recyclable materials or yard debris for collection service.

Recyclable materials. Any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material.

Solid Waste. All useless or discarded putrescible and nonputrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals

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and infectious waste as defined in ORS 459.386. "Solid waste" does not include:

- (a) Hazardous waste as defined in ORS 466.005.
- (b) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of animals.

Yard debris. Grass clippings, leaves, hedge trimmings and similar vegetative waste generated from residential property or landscaping activities, but does not include dirt, sod, stumps or similar bulky wood materials, animal wastes or kitty litter, ashes or food waste.

4.503 Payment Responsibility.

(1) Any person who receives service from a franchisee shall be responsible for payment of the service.

(2) A customer may not deduct the cost of past unreported missed collections from the customer's service bills.

(3) The customer is responsible for requesting a vacation credit from the franchisee. The customer may request a vacation credit to stop service for a minimum period of two consecutive weeks and must give at least 48 hours advance notice to the franchisee of the request for service suspension.

4.505 Notification of Missed Collection or Billing Errors. The customer shall promptly notify the franchisee about a missed collection or billing error.

4.507 Location of Receptacles.

(1) The customer shall place receptacles in a location that does not obstruct mailboxes, water meters, the sidewalk, fire hydrants, driveways, or impede traffic flow or on-street parking. The customer shall provide for reasonable vertical clearance for receptacle(s) picked up away from the curbside or roadside.

(2) Residential (single-family residences and buildings of four or fewer units) receptacles must be placed at the curbside, unless the customer subscribes to backyard service at the approved backyard service rate. Special placement arrangements for physically impaired customers may be made by agreement between a customer and the franchisee.

(3) Multifamily (five or more dwelling units) customers shall set solid waste, recyclable materials and yard debris receptacles at a location that is readily accessible and safe to empty and load and that is agreed upon by the franchisee and the customer.

(4) Commercial customers shall set solid waste, recyclable materials and yard debris receptacles at a location that is readily accessible and safe to empty and load and that is agreed upon by the franchisee and the customer.

(5) Drop boxes shall be placed in locations agreed upon by the franchisee and the customer that are readily accessible and safe to empty and load. Unless agreed to by the City in writing, drop boxes shall not be placed on any public right-of-way or any city property.

(6) Compactor customers shall place compactors at a location that is readily accessible and safe to empty and load and that is agreed upon by the franchisee and the customer.

4.509 Set Out Time for Receptacles.

The customer is responsible for proper placement of solid waste, recyclable materials and yard debris receptacles by 6:00 a.m. on the customer's designated collection day. Receptacles shall not be set out at the curb more than 24 hours before the scheduled pickup and all receptacles must be retrieved from the curb within 24 hours of the collection.

4.511 General Preparation of Materials.

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The customer shall place solid waste, recyclable materials and yard debris safely and securely in the franchisee-provided receptacles to prevent lightweight materials from blowing away prior to and while being placed into the collection vehicle. The customer shall load the contents of a receptacle in such a manner that they fall freely from the receptacle while being emptied by the franchisee. The franchisee shall not be responsible for digging the contents out of a receptacle. The customer shall not overfill a receptacle so that the lid cannot be securely closed or, for a drop box, that a tarp cannot be securely fastened. The customer is responsible for closing the receptacle as securely as possible to prevent the lid or materials from blowing away or rain from getting into the receptacle. If a drop box is overfilled, the customer shall be responsible for removing the excess material to another drop box so that a tarp cover can be securely fastened on both drop boxes. The customer shall bag cold ashes, animal wastes, kitty litter and other fine materials separately from other solid waste. The customer may dispose of these materials in the solid waste receptacle.

4.513 Weight of Receptacles.

(1) Residential customers shall limit the weight of a receptacle and its contents to the maximum weights listed as follows:

<u>Cart Capacity</u>	<u>Maximum Weight</u>
21-gallon	35 lbs.
35-gallon	60 lbs.
65-gallon	120 lbs.
95-gallon	145 lbs.

(2) The weight of material put into a commercial receptacle or drop box, whether compacted or not, shall not exceed the lifting capacity of the franchisee's equipment, nor shall the weight of a loaded drop box put the franchisee over the weight limit for the loaded vehicle. The franchisee shall furnish the customer with information

concerning limitations on its equipment, upon request. A franchisee is not required to collect receptacles exceeding 300 pounds gross loaded contents per cubic yard. However, if the franchisee collects an overweight receptacle, the franchisee may charge the customer for disposal costs on the excess over 300 pounds per cubic yard. If drop boxes are overloaded to exceed the weight limit for a loaded vehicle, the customer shall be charged for any fine resulting from an overweight ticket. If the contents of a drop box are compacted, either manually or mechanically, the customer shall pay the City-approved compactor rate.

4.515 Putrescible Waste Storage.

The customer shall store putrescible materials in manner that does not constitute a nuisance as defined by Section 5.455 of this Code.

4.517 Drop Box Collection.

The collection frequency for drop boxes shall be determined between the franchisee and the customer based on:

- (1) the waste composition;
- (2) the weight of the material and receptacle;
- (3) the ability of the franchisee to transport said loaded receptacle to a disposal facility without being in violation of the highway weight regulations; and
- (4) the proper maintenance of said receptacle by the customer to prevent leakage.

4.519 Preparation of Recyclable Materials.

(1) Commercial and multifamily customers shall prepare recyclable materials for collection in accordance with City-approved instructions provided by the franchisee.

(2) Residential customers shall separate and prepare recyclable materials for collection as outlined below.

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(a) Remove the lids and labels and rinse glass bottles and jars. Place these containers in the 14-gallon bin provided by the franchisee. Do not include broken glass, drinking glasses, cooking ware, plate glass, safety glass, light bulbs, ceramics, and non-glass materials. Also, place motor oil in a clear leak-proof, unbreakable container of not more than one gallon each, with a screw-on cap and place the closed container in the 14-gallon bin provided by the franchisee. Do not include other fluids.

(b) Place the following materials in the 95-gallon cart provided by the franchisee for this purpose:

- (i) empty aerosol cans;
- (ii) aluminum cans, food trays, and foil (rinse and flatten);
- (iii) corrugated cardboard and brown paper bags (flatten);
- (iv) magazines and catalogs;
- (v) newspapers;
- (vi) plastic bottles and jugs with a neck smaller than the base (remove the lids and labels, rinse, and flatten);
- (vii) scrap metal, but not including appliances, car parts, bicycles and lead batteries; and
- (viii) steel and tin cans (remove the lids and labels, rinse, and flatten).

4.521 Preparation of Yard Debris Materials.

(1) The customer shall place yard debris in the 65-gallon carts supplied by the franchisee. The customer may place excess yard debris in 32-gallon cans or kraft bags for collection by the franchisee at the City-approved rate.

(2) The customer shall include only the materials that meet the definition of yard debris in the yard debris receptacle.

4.523 Preparation of Other Solid Waste.

The customer shall place medical and infectious wastes in appropriate

containers. The customer shall not place medical and infectious waste materials into a receptacle for collection with solid waste, recyclable materials, or yard debris materials. The customer should contact the franchisee for information on proper disposal options. The customer is responsible to prepare other wastes as agreed upon with the franchisee.

4.525 Disposal of Unacceptable Solid Waste Materials.

The customer shall not place unacceptable materials in solid waste, recyclable materials and yard debris receptacles. If a customer places unacceptable materials in a receptacle furnished by a franchisee and that receptacle is damaged as a result, the customer shall be responsible for paying the cost of repair or replacement of that receptacle. Unacceptable materials include hazardous materials, chemicals, paint, corrosive materials, infectious waste, semi-solid wastes, flammable materials or hot ashes. The customer should contact the franchisee for information on proper disposal options.

4.526 Violation.

Violation of the provisions of Sections 4.500 to 4.526 is a Class A civil infraction and a nuisance subject to Sections 5.400 to 5.530 of this Code.

[Sections 4.500 to 4.526 added by Ordinance No. 1452, adopted June 12, 2000.]

ROADWAY MAINTENANCE SERVICE

4.550 Purpose.

A Roadway Maintenance Fund is created for the purpose of providing for the operational maintenance of the City's street system and adjacent public rights-of-way. The City declares the necessity of providing maintenance of the City's roadway system as a roadway utility, providing a necessary and sustainable source of funding, with such maintenance to include actions

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necessary to 1) provide safe facilities, 2) properly maintain such facilities and areas to maximize their use, utility, and longevity, 3) maintain landscaped areas within the street rights-of-way, 4) provide maintenance for roadway facilities used by pedestrians, bicyclists, and mass transit users as well as those used by vehicle drivers, and 5) take any other action necessary to ensure that existing city roadways are maintained at standards that support the needs of city residents, businesses, and institutions.

[Section 4.550 repealed by Ordinance No. 1437, effective July 1, 1999; Section 4.550 amended by Ordinance No. 1557, adopted January 14, 2008.]

4.552 Definitions.

“Qualifying Roadway Maintenance Service Expenditures.” Those portions of the annual budget which can be identified as relating to ordinary maintenance of public roadways for which the City of West Linn is responsible for maintenance, and also capital maintenance and upgrade of such existing roadways. Qualifying roadway maintenance fund expenditures shall include; 1) maintenance, repair, and replacement of street surfaces, street curbs and gutters, sidewalks, guardrails, traffic control markings, traffic control signs, street traffic signals, street striping, neighborhood traffic calming devices; 2) tree and brush trimming affecting city streets; 3) maintenance of street improvements used by pedestrians, bicyclists, and mass transit users; 4) administrative, engineering design, construction management, and other related costs of administering the roadway utility maintenance fund; 5) street lighting expenses; and 6) any other items that can be reasonably related to the ordinary and capital maintenance of existing City public streets and adjacent public rights-of-way.

“Residential Unit.” Any single-family residence, detached or attached, duplex, manufactured home, or multi-family dwelling, apartment or condominium within

the corporate boundaries of West Linn. Accessory dwelling units shall not be considered residential units unless they are on a separate water meter.

“Structure Square Footage.” The area of a building enclosed on all four sides by walls, doors, windows, or similar enclosures.

[Section 4.552 added by Ordinance No. 1557, adopted January 14, 2008.]

4.555 Roadway Maintenance Service Fees shall only be used for Qualifying Roadway Maintenance Service Expenditures.

The roadway maintenance service fees shall be used only for qualifying roadway maintenance service expenditures. Qualifying expenditures shall be identified by the City Manager in each fiscal year budget, and shall be reviewed and approved by the City Council when adopting the budget.

[Section 4.555 amended and renumbered 4.062, Storm Sewer Policy, by Ordinance No. 1437, effective July 1, 1999; Section 4.555 amended by Ordinance No. 1557, adopted January 14, 2008.]

4.560 Establishment and Revision of Roadway Maintenance Service Fee.

The City Council hereby establishes a roadway maintenance service fee to be paid by the responsible party for each residential unit and each non-residential use within the corporate limits of the City. The annual amount of the aggregate fee collected shall be based upon the annual amount of qualifying roadway maintenance service expenditures as determined in the City Budget, taking into consideration other potential sources of revenue available to the City for qualifying roadway maintenance service expenditures. If the actual amount of roadway maintenance service fees collected in any fiscal year exceeds the actual amount of

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qualifying roadway maintenance service expenditures during the same fiscal year, the resulting surplus shall be credited toward the following year's qualifying roadway maintenance service expenditures, and the roadway maintenance service fee rate shall be reduced accordingly. Any deficit in funds at the end of each budget year shall be reconciled with other funds available to the City. If additional revenues become available to the city from the state gasoline tax, the City shall proportionately reduce the amount of the roadway maintenance service fee to account for the increase.

[Section 4.560 amended and renumbered 4.065 by Ordinance No. 1437, effective July 1, 1999; Section 4.560 amended by Ordinance No. 1557, adopted January 14, 2008.]

4.562 Duties of Director of Public Works.

The Director of Public Works shall be responsible for administration of the roadway maintenance fund, including developing maintenance programs, establishing standards for the operation and maintenance of city streets and adjacent public rights-of-way, developing administrative procedures for the roadway maintenance fund and service fee, consideration and assignment of classifications of use for the purpose of establishing a trip generation rate and total trips generated, determination of appropriate building square footage for purposes of calculating total trips generated, and all other activities related to the purpose of the roadway maintenance fund, except as provided by Section 4.564. The Public Works Director will make an annual report on the work performed using the roadway maintenance fund and the work projected for the next year.

[Section 4.562 added by Ordinance No. 1557, adopted January 14, 2008.]

4.564 Duties of Finance Director.

The Finance Director shall be responsible for the collection of roadway maintenance service fees.

[Section 4.564 added by Ordinance No. 1557, adopted January 14, 2008.]

4.570 Calculation of Roadway Maintenance Service Fee for Residential Units.

The roadway maintenance service fee to be collected for each residential unit in the City shall be established by resolution of the City Council.

[Section 4.570 amended and renumbered 4.072 by Ordinance No. 1437, effective July 1, 1999; Section 4.570 amended by Ordinance No. 1557, adopted January 14, 2008.]

4.572 Calculation of Roadway Maintenance Service Fee for Non-Residential Uses.

The roadway maintenance service fee for non-residential uses shall be based upon the most recently published edition of Trip Generation prepared by the Institute of Traffic Engineers (ITE). The City Council shall establish the most appropriate rate, and may use sliding scales, maximum caps, or other techniques in setting appropriate rates.

The structure square footage used for purposes of calculating the appropriate roadway maintenance service fee for non-residential uses shall be the structure square footage documented in city records, including building permits, business licenses, or other available data. At the responsible party's request, the City shall conduct an on-site survey to determine the appropriate square footage measurement for calculating the appropriate roadway maintenance service fee. The maximum fee for any individual business establishment shall be \$440 per month, which may be increased by a maximum of three percent annually. The maximum fee

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for any public or institutional establishment shall be \$300 per month.

[Section 4.572 added by Ordinance No. 1557, adopted January 14, 2008.]

4.574 Calculation of Roadway Maintenance Service Fee for Mixed Uses.

Roadway utility users with both residential and non-residential uses shall pay a service fee based upon calculating the residential and non-residential uses separately, and then adding the two calculations together. Roadway utility users with mixed non-residential uses shall pay the rate associated with the predominant or largest type of non-residential use.

[Section 4.574 added by Ordinance No. 1557, adopted January 14, 2008.]

4.575 Annual Review of Roadway Maintenance Service Fee.

The amount of the roadway maintenance service fee shall be reviewed annually by the City Council and shall be adjusted as necessary to provide adequate funding for the qualifying roadway maintenance service expenditures as defined in Section 4.552.

[Section 4.575 repealed by Ordinance No. 1437, effective July 1, 1999; Section 4.575 added by Ordinance No. 1557, adopted January 14, 2008.]

4.580 Reduced Roadway Maintenance Service Fee for Low Income Residents.

Reduced roadway maintenance service fees for residential units shall be made available to low-income citizens meeting the eligibility requirements pursuant to Section 4.155. The user charge for the roadway maintenance service fee provided to the principal resident or family having a maximum income under the qualifying income limits shall be fifty percent (50%) of the roadway maintenance service fee.

[Section 4.580 amended and renumbered 4.075 by Ordinance No. 1437, effective July 1, 1999; Section 4.580 amended by Ordinance No. 1557, adopted January 14, 2008.]

4.581 Initiation of Roadway Maintenance Service Fee.

The roadway maintenance service fee shall be collected from each utility customer from the time a building permit is issued for the subject property. The City shall initiate a roadway maintenance service account upon issuance of a building permit to collect the roadway maintenance service fee. The amount of the fee shall be the amount to be charged upon completion of the building as set forth in the City's fee schedule. If the building permit expires without completion of construction and is not renewed prior to expiration, the roadway maintenance service fee shall be terminated as of the date of expiration.

[Section 4.581 added by Ordinance No. 1557, adopted January 14, 2008.]

4.582 Billing and Collection of Roadway Maintenance Service Fee.

The responsible party shall pay a monthly roadway maintenance service fee according to the rate set forth in Section 4.570, 4.572, or 4.574. Unless another responsible party has agreed in writing to pay and a copy of that writing is filed with the City, the person or entity paying the City's water utility charges shall pay the roadway maintenance service fee for the same property or use that receives water service on that account. If water service to a property is discontinued at the request of the responsible party for a period of at least 15 days, the property shall be considered vacant or use discontinued, and no roadway maintenance service fee shall be charged for that residence or non-residential property or use while a vacancy exists. If a residential property or a portion of a non-

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residential property is vacant, or a non-residential use is discontinued, for greater than 30 days and water service is still provided to the property, the City will not assess some or all of the roadway maintenance service fee upon written application for non-assessment by the responsible party and verification by the city of the vacancy.

[Section 4.582 added by Ordinance No. 1557, adopted January 14, 2008.]

4.585 Recovery of Unpaid Charges – Enforcement .

Any roadway maintenance service fee due that is not paid when due may be recovered from the responsible party in an action at law by the City. In addition to any other remedies or penalties provided by this or any other ordinance of the City, failure of any user to pay the roadway maintenance service fee when due shall subject such user to discontinuance of water service pursuant to procedures authorized by Section 4.235 of the Municipal Code.

[Section 4.585 amended and renumbered 4.080 by Ordinance No. 1437, effective July 1, 1999; Section 4.585 amended by Ordinance No. 1557, adopted January 14, 2008.]

4.590 Moneys to be Paid into Roadway Maintenance Fund.

All roadway maintenance service fees collected by the City shall be paid into the roadway maintenance fund and used only for qualifying roadway maintenance service expenditures. To the extent that the fees collected do not fully fund qualifying roadway maintenance service expenditures, the City may use other City funds as determined by the City Council to make up the difference. The roadway maintenance service fees collected may not be used for general or other governmental or proprietary uses of the City. It shall not be necessary that the operations and maintenance expenditures from the fund specifically

relate to any particular property from which the fees for said purposes were collected.

[Section 4.590 amended and renumbered 4.082 by Ordinance No. 1437, effective July 1, 1999; Section 4.590 amended by Ordinance No. 1557, adopted January 14, 2008.]

4.595 Appeal.

Upon written request from a utility customer, the City Manager, upon the advice of the Director of Public Works or Finance Director, as appropriate, shall issue a written determination concerning any administrative aspect of the roadway maintenance service fee that affects the utility customer. Within 15 days of the issuance of this written determination, the utility customer may appeal the administrative determination to the City Council. The City Council shall hold a public hearing and may affirm, overturn, or modify the decision of the City Manager.

[Section 4.595 renumbered 4.085 by Ordinance No. 1437, effective July 1, 1999; Section 4.595 amended by Ordinance No. 1557, adopted January 14, 2008.]

PARKS UTILITY SERVICE

4.600 Purpose.

A Parks Utility Fund is created for the purpose of providing for the operational maintenance of the City's parks, recreation, and open space system and the capital maintenance and replacement of facilities within this system. The City declares the necessity of providing maintenance of the City's parks, recreation facilities, and open space areas as a parks utility, providing a necessary and sustainable source of funding, with such maintenance to include actions necessary to 1) provide safe facilities, 2) properly maintain such facilities and areas to maximize their use, utility, and longevity, 3) modernize existing parks and recreation facilities to ensure that they meet today's standards for accessibility, comfort, and ease of use, 4) allow for aesthetic enjoyment of city parks and city open space and natural areas, 5) provide proper upkeep

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of flora within city parks and open space areas, including especially maintenance of a healthy and diverse tree canopy and removal of invasive and destructive vegetation, 6) provide proper maintenance of driveways and walkways providing ingress and egress for city parks, and 7) take any other action necessary to ensure that city parks, recreation facilities, and open space areas are maintained at standards that support the need of city residents.

4.605 Definitions.

Residential Unit. Any single-family residence, detached or attached, duplex, manufactured home, or multi-family dwelling, apartment or condominium within the boundaries of West Linn. Accessory dwelling units shall not be considered residential units. Group residential facilities, residential facilities, residential homes, and senior citizen/handicapped housing facilities, as defined in the West Linn Community Development Code, shall be counted as a single residential unit.

Qualifying Parks Utility Service Expenditures. Those portions of the annual budget which can be identified as relating to ordinary maintenance of parks, recreation facilities, and open space areas owned and managed by the City of West Linn and also capital maintenance (defined as replacement or extensive modernization or rehabilitation of an existing parks asset) of such facilities. Qualifying parks utility fund expenditures shall include employee-related costs, vehicle expense, insurance costs, office supplies, utility services, equipment, communications charges, volunteer work coordination, materials, supplies, park and facility repair and renovation, and any other items that can be reasonably related to the ordinary and capital maintenance of existing city parks, recreation facilities, and open space areas.

4.620 Parks Utility Service Fees shall only be used for Qualifying Park Utility Service Expenditures.

The parks utility service fees shall be used only for qualifying parks utility service expenditures. Qualifying expenditures shall be identified by the City Manager in each fiscal year budget, and shall be reviewed and approved by the City Council when adopting the budget.

4.630 Duties of Director of Parks and Recreation.

The Director of Parks and Recreation shall be responsible for administration of the parks utility fund, including developing maintenance programs, establishing standards for the operation and maintenance of city parks, recreation facilities, and open space areas, and all other activities related to the purpose of the parks utility fund.

4.640 Establishment and Revision of Parks Utility Service Fee.

The City Council hereby establishes a parks utility service fee to be paid by the responsible party for each residential unit within the corporate limits of the City. The annual budgeted amount of the aggregate parks utility service fee shall not exceed the annual budgeted amount of qualifying parks utility service expenditures as determined in the City budget. If the actual amount of parks utility service fees collected in any fiscal year exceeds the actual amount of qualifying parks utility service expenditures during the same fiscal year, the resulting surplus shall be credited toward the following year's qualifying parks utility service expenditures, and the parks utility service fee rate shall be reduced accordingly. Any deficit in funds at the end of each budget year shall be reconciled with City general funds.

4.650 Amount of Fee.

The parks utility service fee to be collected for each residential unit in the City

shall be established by resolution of the City Council. The amount of the parks utility service fee shall be reviewed annually by the City Council and shall be adjusted as necessary to provide adequate funding for the qualifying parks utility service expenditures as defined in Section 4.605 and as limited in amount by Section 4.640.

4.655 Reduced Parks Utility Service Fee for Low Income Residents.

Reduced parks utility service fees shall be made available to low-income citizens meeting the eligibility requirements pursuant to Section 4.155. The user charge for the parks utility service provided to the principal resident or family having a maximum income under the qualifying income limits shall be fifty percent (50%) of the parks utility service fee.

4.660 Billing and Collection of Parks Utility Service Fee.

The responsible party shall pay the parks utility service fee according to the rate and frequency set forth in the resolution as provided in Section 4.650. Unless another responsible party has agreed in writing to pay and a copy of that writing is filed with the City, the person or entity paying the City's water utility charges shall pay the parks utility service fee. If water service to a property is discontinued at the request of the responsible party for a period of at least 15 days, the property shall be considered vacant, and no parks utility service fee shall be charged for that residence or residences while a vacancy exists. Parks utility service fees for new development shall commence upon the initiation of water service. If a property is vacant for greater than 30 days and water service is still provided to the property, the City will not assess the parks utility service fee upon written application for non-assessment by the responsible party and verification by the city of the vacancy.

4.670 Recovery of Unpaid Charges – Enforcement.

Any parks utility service fee due that is not paid when due may be recovered from the responsible party in an action at law by the City. In addition to any other remedies or penalties provided by this or any other ordinance of the City, failure of any user to pay the parks utility service fee when due shall subject such user to discontinuance of water service pursuant to procedures authorized by Section 4.235 of the Municipal Code.

4.680 Moneys to be Paid into Parks Utility Fund.

All parks utility service fees collected by the City shall be paid into the parks utility fund and used only for qualifying parks utility service expenditures. To the extent that the fees collected do not fully fund qualifying parks utility service expenditures, the City may use other City funds as determined by the City Council to make up the difference. The parks utility service fees collected may not be used for general or other governmental or proprietary uses of the City. It shall not be necessary that the operations and maintenance expenditures from the fund specifically relate to any particular property from which the fees for said purposes were collected.

4.690 Appeal.

Any customer aggrieved by any decision made by the City Manager with regard to the customer's parks utility service fee account may appeal to the City Council by filing with the city a written request for review no later than 15 days after receiving a written notice of decision from the City Manager.

[Section 4.600 renumbered 4.090 by Ordinance No. 1437, effective July 1, 1999; Sections 4.600 through 4.690 added by Ordinance No. 1551, adopted July 9, 2007, and effective August 8, 2007.]

UTILITY STANDARDS FOR DEVELOPMENT

4.700 Purpose and Scope.

Sections 4.700 through 4.710 provide utility standards for the City. Section 4.710 establishes: 1) the definition of adequate water system; 2) criteria by which development applications will be evaluated; and 3) criteria under which approvals may be granted. Compliance with ORS Chapter 197, Goal 11, and other applicable state and federal statutes is also required. Proper notice must be provided to the Oregon Department of Land Conservation and Development and Metro prior to changing the criteria contained in these sections. City utilities must be capable of being maintained within the acceptable limits described in Section 4.710 in order for any proposed development/land-use application to be approved by the City Engineer.

[Section 4.700 added by Ordinance No. 1448, approved May 22, 2000.]

4.710 Municipal Water

(1) The water system is adequate if it:

(a) meets minimum fire flow and domestic flow requirements for each zone;

(b) maintains a system pressure of at least 45 psi;

(c) maintains equalization storage within each pressure zone of at least 25% of projected peak day demand; and

(d) maintains emergency storage within each pressure zone of one average day's demand.

The system is deficient if it does not meet these criteria.

(2) For all land use applications that will result in additional water use, a registered civil engineer shall prepare a plan for the provision of water. The land use application may be approved only if the City Engineer finds the following criteria are met:

(a) The development has no impact on the water system; or

(b) The water system and all its components are adequate and will remain adequate after the development's impacts are added to the system; or

(c) The applicant will construct, fund, or provide proportional funding for water utility infrastructure to compensate for the impact of the development on the water system that creates or exacerbates a deficiency. In determining funding for water infrastructure, the City Engineer shall consider SDC payments.

(3) If the development would create or exacerbate a deficiency in the system, the development may be approved under subsection (2)(c) but the approval shall be made conditional upon achieving the following:

(a) Maintaining fire flow and domestic flow for the zone adequate to meet the highest approved land use demand in the zone and any adjacent zone that is affected by the project;

(b) If storage is already deficient, maintaining equalization and emergency storage that meets the minimum criteria for storage established in the 1982 Water System Master Plan;

(c) If storage is made deficient by the development, maintaining the minimum criteria for storage established by the 1999 Water System Master Plan.

[Section 4.710 added by Ordinance No. 1448, approved May 22, 2000.]

**INSUFFICIENT UTILITY CUSTOMER
PAYMENTS**

**4.800 Allocation of Insufficient Utility
Customer Payments.**

In the event funds received from the City's utility billings for water, sanitary sewer, storm sewer, roadways, and parks are inadequate to satisfy in full all of an individual customer's utility charge, the funds received shall be allocated first to the parks utility, second to the roadway maintenance utility, third to the storm sewer utility, fourth to the sanitary sewer utility, and last to the water utility.

[Section 4.800 added by Ordinance No. 1551, adopted July 9, 2007, and effective August 8, 2007; Section 4.800 amended by Ordinance No. 1557, adopted January 14, 2008.]