



AGENDA

MOLALLA CITY COUNCIL MEETING
February 26, 2020
7:00 PM
Molalla Adult Center
315 Kennel Ave, Molalla, OR 97038

Mayor Keith Swigart

Council President Leota Childress
Councilor Elizabeth Klein
Councilor DeLise Palumbo

Councilor Terry Shankle
Councilor Jody Newland
Councilor Crystal Robles

1. CALL TO ORDER AND ROLL CALL

2. FLAG SALUTE

3. PRESENTATIONS, PROCLAMATIONS, CEREMONIES

4. PUBLIC COMMENT

(Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder.)

5. APPROVAL OF THE AGENDA

6. CONSENT AGENDA

(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may only be discussed if it is pulled from the consent agenda.)

- A. Meeting Minutes – February 12, 2020.....Pg. 2
- B. Resolution Number 2020-02: Budget Transfer for FY 2019-2020; Update to Resolution Number 2020-03: Budget Transfer for FY 2019-2020.....Pg. 5

7. PUBLIC HEARINGS

8. GENERAL BUSINESS

- A. Revision to Chapter 13.02 Utility Payments for Public Services (Fisher).....Pg. 7
- B. Revision to Chapter 13.08 Sanitary Sewers (Fisher).....Pg. 10
- C. Revision to Chapter 13.12 Sewer and Water Main Extensions (Fisher).....Pg. 45
- D. Revision to Chapter 13.13 Surface Water Management (Fisher).....Pg. 47

9. REPORTS

- A. City Manager and Staff
- B. Mayor
- C. City Councilors

10. ADJOURN

Agenda posted at City Hall, Library, and the City Website at <http://www.cityofmolalla.com/meetings>. This meeting location is wheelchair accessible. Disabled individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-829-6855.



Minutes of the Molalla City Council Regular Meeting

Molalla Adult Community Center
315 Kennel Ave., Molalla, OR 97038
February 12, 2020

1. CALL TO ORDER AND FLAG SALUTE

The Molalla City Council Regular Meeting was called to order by Mayor Keith Swigart at 7:00pm.

2. ROLL CALL

COUNCIL ATTENDANCE:

Mayor Keith Swigart – Present
Councilor Elizabeth Klein – Present
Councilor Leota Childress – Absent
Councilor DeLise Palumbo – Present
Councilor Terry Shankle – Present
Councilor Jody Newland – Present
Councilor Crystal Robles - Present
Student Liaison Natalee Litchfield - Absent

STAFF IN ATTENDANCE

Dan Huff, City Manager - Present
Christie DeSantis, City Recorder - Present
Gerald Fisher, Public Works Director - Present
Chaunee Seifried, Finance Director - Present
Alice Cannon, Planning Director - Present
Spencer Parsons, Legal Counsel - Present

3. PRESENTATIONS, PROCLAMATIONS, CEREMONIES

None.

4. PUBLIC COMMENT

(Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder.)

None.

5. APPROVAL OF THE AGENDA

6. CONSENT AGENDA

(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may only be discussed if it is pulled from the consent agenda.)

A. Meeting Minutes – January 22, 2020

A motion was made by Councilor Klein to approve the Consent Agenda, seconded by Councilor Newland. Vote Passed 6-0.

7. PUBLIC HEARINGS

None.

8. GENERAL BUSINESS

A. Resolution 2020-02: Budget Transfer for FY 2019-2020

Finance Director Seifried explained to Council that this resolution adjusts the budget for unforeseen events including unanticipated costs or additional unanticipated revenue.

9. REPORTS

- A. City Manager and Staff
- B. Mayor
- C. City Councilors

Planning Director Cannon deferred her report to City Manager Huff.

Finance Director Seifried announced to Council that two additional Budget Committee members are needed for this years budgeting process.

Public Works Director Fisher shared that the 2 million gallon filtration unit had been received at the Water Plant. At the shops, paving has been completed. Occupancy should be granted within the next ten days.

City Recorder DeSantis reminded Council of upcoming Budget Committee dates; April 23 and April 29, 2020. Applications for Appointment to a Committee/Commission are available on the website.

City Manager Huff informed Council that the next CHTC Hearing will be held on March 17, 2020 at 6:00pm. The City is looking for a different venue, in an effort to create more space for attendees.

Mayor Swigart has contacted to Representative Rick Lewis regarding the Cap and Trade Bill that is before the Senate right now. He is concerned about the effect of Molalla as a “commuter community”, as fuel prices will be dramatically increased. Mayor Swigart encouraged citizens to contact the legislature in protest.

Councilor Klein attended the Clackamas County Tourism Retreat for the future of tourism. Oregon Mt. Hood Territory is looking at different impacts, what is sustainable tourism, and managed growth in tourism. There was a lot of conversation around alternative lodging, as AirBnB’s are taking away from hotel activity. Councilor Klein also passed out the new Molalla Vision and Action Plan; which people were happy to see.

Councilor Palumbo – Nothing to report.

Councilor Newland shared that Share the Love events are in full swing. Her family attended the Cops vs. Firemen Basketball Game that had been held the previous evening. She encouraged the community to get involved in the many opportunities that Share the Love offers.

Councilor Shankle – Nothing to report.

Councilor Robles – Nothing to report.

10. RECESS INTO EXECUTIVE SESSION

Held pursuant to Oregon Public Record Law, ORS 192.660(2):

- (h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

Mayor Swigart announced that Council would recess to Executive Session at 7:14pm.

11. RECONVENE REGULAR SESSION

Regular Session reconvened at 7:45pm.

Councilor Newland made a motion to authorized the City Attorney’s Office to initiate and take all legal actions necessary to enjoin and abate CHTC, Inc., the “Person in Charge” of the CHTC Property, and the “Person Responsible” for the CHTC Property from operating the facility in any manner that creates an offensive odor, including but not limited to abatement measures and injunctive relief, and to otherwise compel compliance with all applicable federal, state and local laws. Seconded by Councilor Klein. Vote passed 6-0.

12. ADJOURN

The Council meeting was adjourned at 7:55pm.

Keith Swigart, Mayor

Date

ATTEST:

Christie DeSantis, City Recorder

DRAFT

City of Molalla

City Council Meeting



Agenda Category: Consent Agenda

Subject: Amendment to Resolution No. 2020-03

Recommendation: Approve

Date of Meeting to be Presented: February 26, 2020

Fiscal Impact: None

Background:

Resolution No. 2020-02 had been assigned at a previous meeting. At the Feb. 12, 2020 meeting, Resolution No. 2020-02 was mistakenly assigned again, to Authorize the Transfer of re-appropriated Funds within FY 2019-2020 Budget.

Staff requests that Council approve as a Consent Agenda item; Amendment to Resolution No. 2020-03 , a Resolution authorizing the transfer of re-appropriated funds within FY 2019-2020 Budget.

SUBMITTED BY: Christie DeSantis, City Recorder
APPROVED BY: Dan Huff, City Manager

RESOLUTION NUMBER 2020-03



**RESOLUTION OF THE CITY OF MOLALLA, MOLALLA CITY COUNCIL
AUTHORIZING THE TRANSFER OF RE-APPROPRIATED FUNDS WITHIN
FY 2019/2020 BUDGET**

WHEREAS, on June 12, 2019 the City of Molalla budget for FY 2019/2020 was adopted and funds were appropriated by the Molalla City Council; and

WHEREAS, this resolution is prepared pursuant to ORS 294.463; and

WHEREAS, the purpose of the authorized expenditures is to rebalance the FY 2019/2020 operating budget: and

WHEREAS, the transfers within the Sewer Fund is needed to re-appropriate funds between categories.

NOW, THEREFORE, BE IT RESOLVED:

That the FY 2019/2020 Budget appropriations be revised as follows:

FUND	Organizational Unit or Program	Existing Appropriations	Transfer In	Transfer Out	Revised Appropriations
Sewer Fund:	Sewer Maintenance	\$740,890	\$193,000		\$933,890
	Contingency	\$385,494		(\$193,000)	\$192,494
Total Sewer		\$1,126,384	\$193,000	(\$193,000)	\$1,126,384

This resolution shall become effective immediately upon its passage by Council.

Adopted by the City Council of the City of Molalla at a regular meeting thereof this 12th day of February 2020 by the following vote:

AYES: _____

NAYS: _____

Keith Swigart, Mayor

ATTEST this 12th day of February 2020:

Christie DeSantis, City Recorder

City of Molalla

City Council Meeting



Agenda Category: New Business

Subject: Revised Chapter 13.02 Utility Code

Recommendation: Instruct Staff to Prepare Ordinance for Adoption by City Council

Date of Meeting to be Presented: February 26, 2020

Fiscal Impact: N/A

Background:

On January 22, 2020, Council held a work session to review language and title changes to Chapter 13.02 of the Molalla Municipal Code. Staff prepared code and made changes per City Council's consensus. This agenda item will allow for any final edits to the proposed ordinance before adoption.

Recommended Motion: Direct staff to prepare Ordinance to replace Chapter 13.02.

or

Recommended Motion: Direct staff to prepare Ordinance to replace Chapter 13.02 as amended.

SUBMITTED BY: Gerald Fisher, Public Works Director
APPROVED BY: Dan Huff, City Manager

Chapter 13.02 UTILITY CODE

13.02.010 Utility Code.

Chapters 13.02 through 13.16 MMC shall be known as the "Utility Code."

13.02.020 Exclusive control of utility systems and services by city.

The City of Molalla has exclusive control of the water, sewer and stormwater management utility systems and services within the city limits, including all connections and contributions to the utility systems. It is prohibited for any person to install any service, connect to any system, discharge sewer or stormwater into the system, provide utility service or otherwise tamper or interfere with any part of the system without authorization from the city.

13.02.030 Jurisdiction and operation.

The city may provide utility service to or receive utility service from any other utility service provider pursuant to an agreement authorized by the city council. Such agreements may include, but are not limited to:

- A. Sale or purchase of surplus water to or from any other municipal corporation, special district or utility company.
- B. Sale or purchase of treatment services to or from any other municipal corporation, special district or utility company.
- C. Provision of utility service within the city limits by any other municipal corporation, special district or utility company.

13.02.040 Payments for utility services.

A. All charges for utility service shall be due and payable monthly on the date of mailing and become delinquent on the 16th of each month. A late fee set by resolution shall be assessed on any utility accounts, which become delinquent. After a customer's utility bill is delinquent, the Finance Director or designee shall mail to customer a notice stating:

1. That the utility bill is delinquent;
2. The amount necessary to cure the delinquency;
3. That the utility service to the property will be shut off 20 days after the date of the notice, unless the delinquency is paid in full.

4. After termination of utility service, the full account balance including the fees will be required before service can be restored. If notice is mailed as provided in this section, the City may shut off utility service to the property 20 days after mailing of the notice unless the total amount due is paid in full, but subject to the City's compliance with the options specified in subsection C.

B. Utility services disconnected for lack of payment of the utility bills will be assessed a disconnect/reconnect fee as set by resolution and shall not be restored until all past-due-bills, late fees, and any other utility charges or connection fees are paid in full.

C. 1. The customer may request in writing a one-time emergency extension of payment (not to exceed 10 days) to avoid service being shut off and a disconnect fee being charged. If customer defaults on this agreement the utility account will be shut off the morning after the agreement expires and a disconnect fee will then be charged.

2. Any customer may request a waiver of their late fee in writing providing no other late fees have been assessed in the prior 12 months.

3. A customer may appeal a notice of utility shut-off by filing a written request for an informal hearing with the City within 15 days after the date of mailing of the notice. The appeal shall be filed with the City Manager and shall specify the reasons for the appeal. If an appeal is so filed, utility service shall not be disconnected before the business day after the announcement of the result of the hearing. The informal hearing shall be held as soon as is practically possible before the City Manager or designee. The City shall provide the customer reasonable notice of the date of the hearing. The customer may be represented by an attorney at the hearing, and any probative evidence shall be admissible. The hearing officer may affirm, overrule, or modify the notice of utility shut-off, considering applicable law and the nature of any hardship of the customer.

D. All payments shall be made to the City either by mail, online bill pay, at the office of the City, placed in drop box, or such other place as the Council may from time to time designate.

DRAFT

City of Molalla

City Council Meeting



Agenda Category: New Business

Subject: Revised Chapter Ch 13.08 Sanitary Sewers

Recommendation: Instruct Staff to Prepare Ordinance for Adoption by City Council

Date of Meeting to be Presented: February 26, 2020

Fiscal Impact: N/A

Background:

On January 22, 2020 and February 12, 2020, Council held a work session to review language changes to Chapter 13.08 of the Molalla Municipal Code. Staff prepared code and made changes per City Councils consensus. This agenda items will allow for any final edits to the proposed ordinance before adoption.

Recommended Motion: Direct staff to prepare Ordinance to replace Chapter 13.08.

or

Recommended Motion: Direct staff to prepare Ordinance to replace Chapter 13.08 as amended.

SUBMITTED BY: Gerald Fisher, Public Works Director
APPROVED BY: Dan Huff, City Manager

Chapter 13.08 SANITARY SEWERS

13.08.010 Definitions.

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

“**Alternative sewage disposal system**” means alternative wastewater treatment process(es) and technique(s) which are proven methods providing for the reclaiming and reuse of water and productively recycled wastewater constituents, or otherwise eliminate the discharge of pollutants. (See Appendix E of the Innovative and Alternative Technology Guidelines, EPA Innovative and Alternative Technology Assessment Manual, MCD53.)

“**Backflow preventer**” means a device or means designed to prevent backflow or back-siphonage.

“**BOD (biochemical oxygen demand)**” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in milligrams/liter (mg/l). (EPA Standard Methods 5210(B) shall be used for any tests of BOD.)

“**Building drain**” means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building, and conveys it to the building storm sewers, beginning five feet outside the inner face of the building walls.

“**Building service line**” means all water service piping on the customer’s side of the main service meter where the meter is within the public right-of-way or easement. Also, all other service connection piping between the meter and the main located on private property (excluding water meters) where the City does not have existing agreements to maintain and replace such piping.

“**Building sewer**” means that part of the horizontal piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to a public sewer at the public right-of-way or easement, private sewer, individual sewage disposal system, or other point of disposal.

“**Business day**” or “working day” means Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding any City-recognized holidays.

“**COD (chemical oxygen demand)**” means the quantity of oxygen, expressed in milligram per liter, utilized by decomposition of organic and inorganic contaminants, dissolved or suspended in water, during a two-hour oxidation test. (EPA Standard Methods 5220(D) shall be used for any tests of COD.)

“**Commercial business**” means a business establishment which furnishes goods or services to either the general public or other commercial operations.

“**Controlled cross-connections**” means a connection between a potable water system and a non-potable water system, with an approved backflow-prevention device properly installed that will continuously afford the protection commensurate with the degree of hazard.

“**Cross-connection**” means any physical connection or arrangement of piping or fixtures between two otherwise separate piping systems, one of which contains potable water and the other non-potable water or industrial fluids of questionable safety, through which, or because of which, backflow or back-siphonage may occur into the potable water system. Other types of cross-connections include but are not limited to connectors such as swing connections, removable sections, four-way plug valves, spools, dummy sections of pipe, swivel or changeover devices, sliding multiport tube, and solid connections.

“**Customer**” see “User.”

“Developer” means any person, company or corporation who purchases or holds an interest in real property with the intent to increase the value thereof by the installation of utilities, construction of a building or buildings, grading, ditching, improving or enhancing the ground or structures for the purpose of resale.

“Dwelling unit” means any of the following:

- A. A single-family dwelling;
- B. An accessory dwelling unit;
- B. A habitable unit of multifamily dwelling(s), including an apartment;
- C. A condominium; or
- D. A manufactured home.

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

“Industrial facility” means an establishment primarily engaged in manufacturing, processing or fabrication of goods.

“Industrial user” means any user engaged in the introduction of pollutants into a Publicly Owned Treatment Works (POTW) from any non-domestic source regulated under section 307(b), (c) or (d) of the Federal Water Pollution Control Act, Title 33 U.S.C. 1251.

“Industrial wastes” means the liquid wastes from any Industrial User. A user in the divisions listed in Industrial User may be excluded if it is determined that it will introduce primarily segregated domestic wastes or wastes from sanitary conveniences.

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

“Mains” means collection pipelines that are part of the City sewer system.

“Multi-user” means a customer supplied with water service to more than one dwelling unit, commercial business or industrial facility, or combination thereof, from one water service connection.

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

“Operation” means control of the unit processes and equipment which make up the treatment works. This includes financial and personnel management, records, laboratory control, process control, safety and emergency operation planning.

“Operation and maintenance” means activities, including but not limited to replacement, to assure the dependable and economical function of the treatment works.

“Person” means any individual, firm, company, association, society, group or corporation.

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

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

“Private sewer” means a privately owned and maintained lateral sewer system normally six or eight inches in diameter, installed to serve multi-unit structures on single-ownership properties, which cannot legally be further divided, such as apartments, mobile home parks, schools and condominiums.

“Properly shredded garbage” means the wastes from the preparation, cooking and disposing of food that has 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 in any dimension.

“Property owner” means the owner of the premises who is also the ultimate responsible party for all customer charges and fees. The property owner may also be the customer for any given premises.

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

“Publicly Owned Treatment Works or POTW” means a treatment plant or system, owned and operated by the City of Molalla, for the treatment of waters collected in a sewer collection system.

“Replacement” means any work and/or expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term “operation and maintenance” includes replacement.

“Sanitary sewer” means a conduit intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, and to which stormwater, surface water, and groundwater are not intentionally admitted.

“Service connection” means a water connection or sewer connection as the context indicates.

“Service connection charge” means the fee levied to pay for the cost of labor, materials and any inspection required during the construction of a utility service line from the water or sewer main to the property that is to be served, with the charges to be itemized on a standard City billing form.

“Sewage” means 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.

“Sewage treatment plant” means any arrangement of devices and structures used for treatment of sewage.

“Sewage works” means all facilities for collecting, pumping, treating and disposition of sewage.

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

“Sewer connection” means a public sewer that has been constructed to the property line or right-of-way line from a public main for the sole purpose of providing a connection for the building sewer.

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

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

“Storm drain” (sometimes termed “storm sewer”) means a sewer designed to carry stormwater and surface water and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

“Stormwater” means surface runoff and street wash waters, and drainage.

“Surface water” means all naturally occurring water whose surface is exposed to the atmosphere, including natural drainage ways, stream corridors, rivers, ponds, wetlands, and impoundments.

“Suspended solids” means 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.

“**System development charge**” means the fee or charge assessed to each commercial business, industry or dwelling unit for the right to connect to the City’s sewer or water system, and which is used for expansion of those systems.

“**Temporary service**” means service of limited duration.

“**TSS (total suspended solids)**” means the total suspended matter that floats on the surface, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering. (EPA Standard Methods 2540(D) shall be used for any tests for TSS.)

“**Useful life**” means the period during which a treatment works is planned and designed to be operated.

“**User**”. means the owner, agent, tenant or other authorized representative responsible for occupancy of the premises that is served by a City utility system. A person, corporation, association or agency which rents, or leases premises shall be considered an agent of the property owner.

“**User service charge**” means a charge levied on customers that may be a combination of a base fee, a usage fee and a fixed fee as set by resolution and/or ordinance.

“**Utility**” or “**Utility system**” means sewer, water and stormwater management services provided by the City of Molalla.

“**Utility rate**” is the rate established by City Council to cover the cost of providing utility system services.

“**Utility service**” means services provided for water, sewer, and stormwater.

“**Wastewater**” means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such incidental groundwater, surface water and stormwater as may be present.

“**Watercourse**” means a channel in which a flow of water occurs, either continuously or intermittently.

13.08.020 Fees, rates and charges – Council authority.

All fees, rates and charges stated within the utility code may be changed at any time by resolution of the City Council.

13.08.030 Fees, rates and charges set by Resolution.

The City Council will establish the fees, rates and charges for the City’s utilities by resolution in an amount reasonable and necessary to fund the administration, debt, planning, design, construction, operation, maintenance and repair of the City’s utility systems. Rates shall be based on generally accepted rate-making principles, including the City’s true costs in upgrading the system to accommodate regulatory requirements and to provide adequate collection and treatment capacity for system users.

13.08.040 Application for service.

The following criteria must be met regarding application for utility service:

A. Application for sewer service shall be made in writing by the owner of the premises to be served, or the owner’s agent duly authorized in writing on regular application forms furnished by the City. No service will be rendered until such application has been completed and the required payments made. All applications shall include signature of applicant, locations of premises for which service is requested, address to which all bills shall be sent, and such additional data as the Council from time to time may require.

B. Applications for service shall be considered merely as a request for service, and they shall not bind the City or Council to provide service.

C. Two or more parties who join together to make or who jointly make application for service are jointly and individually liable and will be sent a single billing.

D. Any person 18 years of age or older who receives utility services at a premises is liable for the services provided.

E. Contracts, other than applications, may be required prior to service where, in the opinion of the City, special circumstances exist.

F. If a service is connected to the City utility system without application, the City will disconnect the premises. Before a new connection is made, the applicant must pay double the rate of the estimated charges for the unpaid services during the period of non-City-approved connection.

G. In no case will utility service be allowed until the customer has complied with the terms of this section and all appropriate fees and charges have been paid.

H. In no case will utility service be allowed for properties that are not in compliance with any other section of the Municipal Code.

13.08.050 Deposit requirements.

Each sewer service customer shall pay a deposit to secure the payment of sewer/utility bills, unless exempted under the provisions of paragraph A.3. of this subsection. The amount of the deposit shall be established by the City Council by resolution. After payment of all amounts due for sewer service, the deposit shall be refunded, within 90 calendar days, to the customer upon termination of service or upon the customer's qualification for an exemption from the deposit requirement.

A. Sewer service customers shall be exempt from the requirement to maintain a deposit if:

1. The customer has maintained a sewer service account with the City for a continuous period of one year without any delinquencies in payment; or
2. The customer previously had a sewer service account with the City of Molalla for a period of at least one year, and there were no delinquencies in payment on that account.
3. Notwithstanding the provisions of this section, the City Manager may waive a customer's deposit requirement, extend the period during which a deposit is required, or reinstate a customer's deposit requirement for good cause.

13.08.060 Rates – Generally.

All users of the City's sewage system shall pay to the City the rates for sewer service as provided by this chapter.

Sewer service charges shall commence at the time a private connection to the public sewer system is installed at a property.

13.08.070 Service connection charges – Generally.

A. A connection charge levied and imposed upon the owner of any property connecting to the sanitary sewer system of the City of Molalla, which shall be paid prior to such connection. The charge shall be established by the City Council by resolution.

B. The connection charge is levied upon a property based upon the existing or intended use of the property at the time of application for connection. If the property is improved, expanded, subdivided or otherwise modified so as to increase the connection charge due from that property, a connection charge

shall be levied for the modified portion of the property based upon connection charges in effect at the time of the modification.

13.08.080 Rates – Outside-City.

A. No services will be provided outside of City limits. User service charges for preexisting utility customers located outside the City limits will be billed at rates necessary to ensure the financial viability of the utility system as determined by a rate study and established by resolution. User service charges will include both base rate charges and metered usage charges.

B. The rate schedule for outside service shall in no instance be less than the rates charged for residents within the City limits, and it may be more in such additional amount as the Council may from time to time determine. The City shall require annexation as a condition of providing sewer service for all new service connections.

13.08.090 Charges for restoration of service.

The City will charge a fee to a customer for restoration of utility service when service has been discontinued under the provisions of the utility code. This charge does not apply to newly installed service connections unless the applicant has outstanding charges on another account. The City may require a deposit, or require a larger deposit, before it will restore utility service based on prior payment history.

13.08.100 Computation and collection of charges.

The Finance Department will collect all user service charges. User service charges are computed and payable as provided in the utility code.

13.08.110 Revenues – Deposit and use.

The Finance Department will deposit in the appropriate fund all the gross revenues received from charges, rates and penalties collected for the use of the utility systems. The revenues deposited in the appropriate fund must be used exclusively for administration, planning, design, construction, improvements, operation, maintenance, debt payments and repair of the City's sewer utility system.

13.08.120 Billing – Mailing address.

The City will mail bills for user service charges to the mailing address specified on the application for services, unless a different owner or customer has requested to the Finance Department that services be placed in their name and has agreed in writing to be responsible for the user service charges. When requested, the City will submit bills through its online billing program.

13.08.130 Billing – Payment responsibility.

A. The property owner of record is ultimately responsible for payment of all charges prescribed in the utility code, regardless of any agreement the property owner may have with a third party and regardless of whether the customer's bills were in a tenant's name.

B. A customer who is a tenant continues to be responsible for delinquent utility charges until paid regardless of relocation to premises different from the premises at which the tenant accrued delinquent charges. The City may refuse to provide service to such tenant at any new address, and/or may terminate utility service until the delinquent bill is paid. The City may also pursue any action available under the laws of the City or State of Oregon to recover payment.

C. Multi-metered accounts must be in the property owner's name.

13.08.140 Adjustment of accounts – Non-leaks.

A. A customer's account will be adjusted if the customer receives less than one month of service. Customers receiving less than one month of service will be billed on a pro rata basis for base and fixed charges.

B. The City may bill the customer for utility services if the service account is active and ON, but the meter is not registering. The bill will be at an amount determined by the finance department to closely reflect what would have been billed had the meter been functioning. This may be based on the prior year's usage during the same time period, if available, or the prior two months' usage.

C. Adjustments will be in the form of credits on future bills unless the customer no longer has an active account with the City, in which case the City will issue a refund. Eligibility for an adjustment on an account will end 90 calendar days after the date a final bill was issued for that account.

D. In no event may an adjustment be made for more than six consecutive months of billing.

13.08.150 Adjustment of accounts – No service provided.

If a customer pays for utility services not actually received as a result of the City's error, the City will refund the amount paid for services not received. Refunded amount may not exceed a period of one year from the date the customer notified the City.

13.08.160 Adjustment of accounts – Leaks.

A. The City may adjust a customer's utility billing to reduce charges resulting from a verified leak when:

1. The customer notifies the City in writing of the leak;
2. The customer makes a reasonable effort to locate the leak and initiates repairs within 30 calendar days of discovering the leak;
3. The City verifies the leak exists. Verification of a leak that is not an obvious broken pipe consists of:
 - i) the customer certifying all plumbing fixtures within the building are in the OFF position, and
 - ii) the meter leak detector wheel continues to spin.;
4. The customer (or a contractor hired by the customer) fully repairs the leak within 30 calendar days of notice to the City of the leak; and
5. The customer provides proof that:
 - i) the leak was indeed caused by either a broken pipe or pipe connection, and
 - ii) the leak was repaired. Proof shall be provided to the City in a form and manner as prescribed by the Finance Department, including, but not limited to, receipts and other verification of repairs or costs.

B. If the City determines the customer meets the conditions in subsection (A) of this section, the City will adjust the billing by reducing the affected monthly usage by the excess over the user's normal amount.

Adjustments to the bill may not exceed two months from the date before the customer fixes the leak. The City will add a leak adjustment fee to the customer's bill for any adjusted billings due to leaks.

C. Faulty valves or similar devices of the customer are not grounds for the adjustment of a utility bill. In addition, obvious neglect or improper installation by the customer is not grounds for adjustment of a utility billing.

D. The City will not adjust an account balance resulting from a leak if the same leak occurred within the last two years and the customer has already received an adjustment based on that leak.

13.08.170 Liens for delinquent utility account.

Utility service charges become a lien against the premises served from and after the date of billing and entry on City records pertaining to the utility system. Such records are accessible for inspection by anyone interested to ascertain the amount of such charges against the property. Whenever a bill for utility service remains unpaid for 90 calendar days after billing, the lien thereby created may be foreclosed in a manner provided for in Oregon Revised Statutes, or in any other manner provided for by law or by City ordinance.

13.08.180 Sewer classifications.

User location classifications shall be comprised of, but not limited to, the following:

A. Residential.

1. Single-family (per dwelling unit);
2. Multi-family (per dwelling unit);
3. Mobile home park (per dwelling unit); and
4. Bed and breakfast; shall be considered one dwelling unit, unless the property is clearly divided into multiple dwelling units.

B. Commercial I.

1. Barbershops and beauty shops (each);
2. Car dealers (each);
3. Churches (each, without garbage disposal);
4. Department stores (each);
5. Fraternal clubs (each, without food service/kitchen);
6. Grocery stores (each, without meat cutting);
7. Hardware stores (each);
8. Hotels and motels (each, without food service/kitchen);
9. Laundromats (each);
10. Light industrial (each, flow less than 25,000 gpd, BOD less than 400 mg/l, TSS less than 450 mg/l);

11. Medical, dental and veterinary clinics (each);
12. Pharmacies (each);
13. Print shops (each);
14. Professional offices (each business);
15. Schools (each, without food service/kitchen);
16. Service stations (each, without food service/kitchen);
17. Tap Rooms (each, without food service/kitchen);
18. Warehouses (each); and
19. Travel trailer park (per dwelling unit).

C. Commercial II.

1. Churches (each, with food service/kitchen);
2. Drive-in restaurants (each, with food service/kitchen);
3. Taverns (each, with food service/kitchen);
4. Full-service restaurants and fraternal clubs (each, with food service/kitchen, with grease trap); and
5. Institutions (each, hospitals, schools, nursing homes).

D. Commercial III.

1. Bakeries (each);
2. Full-service restaurants, taverns, and fraternal clubs (each, with food service/kitchen, without grease trap);
3. Grocery stores (each, with meat cutting and/or bakery); and
4. Meat markets, if allowed by City (each).

E. Commercial IV.

1. Septic haulers, if allowed by City (each).

F. Industrial.

1. Any facility that is found by the City to be classified as a Categorical User as outlined in the Clean Water Act, or that discharges effluent to the sanitary sewer for any period which equals or exceeds the following criteria:
 - a. Flow greater than 25,000 gpd;
 - b. BOD greater than 1,500 mg/l;
 - c. TSS greater than 1,500 mg/l;

- d. pH greater than 9.0;
- e. pH less than 6.0.

G. Where two or more user classifications apply to the same water meter usage, then the higher usage rate shall apply.

13.08.190 Service discontinuance at customer request.

- A. A customer may have utility service discontinued by notifying the City at least five business days in advance of the desired date of discontinuance.
- B. If the customer does not give notice, the customer must pay for utility service until the date the City has learned the customer has vacated the premises or a new customer has requested service.

13.08.200 Abandoned and non-revenue-producing services.

- A. The City may remove a utility service connection to a premises that has been abandoned or not used for a period of one year or longer.
- B. The City will only begin new utility service when the City receives a new customer application and payment for the new connection.

13.08.210 Disconnection from sewer system – Destroyed or removed structures.

- A. When any structure connected to the sewer system is destroyed by an act of God, is removed, or is torn down, and/or no longer usable, it shall be required to disconnect from the sewer system. The owner must advise the City of the destruction, stating the date of destruction or removal of the structure, and pay all user service charges to the date of destruction or removal, and thereafter no sewer user service charge will be made to the property until new improvements, if any, are placed on the property. However, the customer must continue to pay other fees, including but not limited to stormwater fees.
- B. When the property is relieved from user service charges and then reconnected to the utility system, the City will determine whether the property had paid into the appropriate utility fund the amount required while the property was using City utilities. If the property had paid user service charges equal to the amount required under the utility rates that were in effect at the time of the disconnection from the utility system, the City will not levy any additional charges.
- C. In addition, when a building with sewer service is destroyed or is relocated to a different property and thereafter replaced by a new building within three years after the date of destruction or removal, the City shall not levy a system development charge for the new building, unless the new building constitutes an increase in use under the system development charge schedule currently in effect. If the replacement building requires a greater system development charge than compared to the destroyed or relocated building previously on the same site, then a credit will be given on the replacement building's system development charge equal to that of the previous building fee, and when the above provisions of this section and MMC 13.08.220 are met.
- D. The current system development charge schedule shall be used for all comparisons and credit determinations under MMC 13.14. When a destroyed or relocated building is not replaced by a new building within three years of the date of destruction or an update to the sewer master plan is completed, then the owner of any replacement building must pay the full system development charge in effect at the time of application for sewer service.

13.08.220 Disconnection from sewer system – Reuse of old facilities.

A. Before the City will issue a moving or demolition permit, City personnel must verify disconnection and capping of the building sewer service at the right of way cleanout. If a cleanout does not exist, property owner must install a cleanout and cap at the right of way meeting City requirements.

B. In addition, when a building with sewer service is destroyed or relocated to a different property and is not replaced by a new building within three years from the date of destruction or removal, the Director of Public Works or director’s designee may inspect the sewer service to determine whether it is in usable condition and is to be reused. If the sewer service is found unusable, the property owner is required to pay all costs for replacement of the sewer service connection.

13.08.230 Disconnection and reconnection procedures.

A. When any structure connected to the sewer system is destroyed by an act of God, is removed or is torn down, and/or no longer usable, it shall be required to disconnect from the sewer. The owner shall advise the City, stating the date of destruction or removal of the structure, and pay all user service charges to the date of destruction or removal, and thereafter no user service charge shall be made to the property until new improvements, if any, are placed on the property.

B. When the property is relieved from user charges and then reconnected to the sewer, the City shall determine whether the property had paid into the sewer fund the amount required while the property was using the sewer. If the property had paid user service charges equal to the amount required under sewer rates that were in effect at the time of disconnecting from the sewer, no additional charges will be levied.

C. In addition, when a building with sewer service is destroyed, or relocated to a different property and thereafter replaced by a new building within three years from the date of destruction or removal, the City shall not levy a system development charge for the new building unless the new building constitutes an increase in use under the system development charge schedule currently in effect. If the replacement building requires a greater system development charge when compared to the destroyed or relocated building previously on the same site, then a credit will be given on the replacement building system development charge equal to that of the previous building fee, and when the above provisions of this section are met.

D. The current system development charge schedule will be used for all comparisons and credit determinations under this section.

E. When a destroyed or relocated building is not replaced by a new building within three years of the date of destruction or an update to the sewer master plan is completed, then any replacement building shall pay the system development charges in effect at the time of application for sewer service.

13.08.240 Unsanitary deposit of waste.

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 the City, any human or animal excrement, garbage, or other unsanitary waste.

13.08.250 Treatment of sewage required.

It is unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any sewage or other polluted substances.

13.08.260 Unlawful sewage disposal facilities.

Except as provided in this chapter, 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.

13.08.270 Toilet facilities and sewer connections required.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 90 calendar days after date of official notice to do so, provided that the public sewer is within 100 feet of the property line.

13.08.280 Private Sewage Disposal – When permitted.

A. Where a public sanitary sewer is not available, the building sewer shall be connected to a private sewage disposal system complying with the requirements of the Oregon State Department of Environmental Quality, the Oregon State Board of Health, the Plumbing Code of the State of Oregon, and Clackamas County and all other applicable laws, rules and regulations.

B. The provisions of this section shall be in addition to and not in lieu of the requirements of other applicable laws, rules and regulations.

13.08.290 Private Sewage Disposal – Operation and maintenance.

The owner of property with a private sewage disposal system shall operate and maintain the system in a sanitary manner at all times, at no expense to the City.

13.08.300 Upon availability of public sewer – Abandonment of private systems.

At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in MMC 13.08.280, and upon notification to the property owner from the City, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be decommissioned, abandoned and filled with suitable material. All costs associated with decommissioning, abandonment and connection shall be the responsibility of the property owner.

13.08.310 Unauthorized connections and disturbances.

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 Director of Public Works.

13.08.320 Costs of building sewer borne by owner.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

13.08.330 Building sewer for each lot or parcel.

A. Every single-ownership property which cannot legally be further subdivided, and which was constructed after February 6, 1984, must have a separate sewer and water connection. These properties include, but are not limited to, multiple-family apartments, condominiums, mobile home parks and commercial or industrial establishments. Only one sewer lateral shall be provided to a residential property.

B. Multi-users with more than one unit located in common ownership on a single parcel of property shall also comply with the Oregon State Plumbing Specialty Code.

C. Any property which is located so as to require the sewer lateral to cross any other property or parcel shall provide evidence of a duly recorded perpetual easement for such lateral, appurtenant to the property to which such lateral will provide service, before any sewer connection is made.

D. Property other than residential shall utilize a common sewer main to provide services to individual building. Exceptions to this requirement must be in the interest of the public as determined and approved by the Director of Public Works.

13.08.340 Materials and connections – Private side.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in connecting, excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the uniform building and plumbing code and all other applicable rules and regulations. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply, or the most current version thereof. All connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Director of Public Works before installation.

Sewer laterals on private property that are not part of the public system or within a public right-of-way or public sewer easement, the size, slope, alignment, materials of construction of a building sewer, and the methods to be used in connecting, excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the uniform building and plumbing code and all other applicable rules and regulations.

13.08.350 Elevation.

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 at the property owner's expense.

13.08.360 Connection of sources of surface runoff.

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

B. Where the City finds that any private service lateral piping is leaking or not legally connected, the property owner will be notified in writing by the City to make necessary repairs. The notification shall include the type of repairs to be made and the date, no less than 30 calendar days from the date of the notice, by which the repairs shall be completed.

C. The property owner shall notify the Director of Public Works when repairs have been made, but before any piping is buried, and the City shall inspect and retest the private service lateral for leaks. The lateral will be considered repaired when it passes the retest by the City.

13.08.370 Inspection – Connection to public sewer.

The applicant for the building sewer permit shall notify the Director of Public Works when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Director of Public Works or representative.

13.08.380 Protection of excavations – Restoration of public property.

All excavations for building sewer installation shall be adequately guarded with barricades and lights 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.

13.08.390 Unlawful discharge of storm and other waters.

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

13.08.400 Regular Utility Service – Rules and regulations.

A. The City may furnish and install a utility service connection of such size and location as a customer requests; provided, that the request is reasonable and is in compliance with provisions of the Oregon State Plumbing Specialty Code, the City's design standards, and the utility code. The customer is responsible for all costs, including administration, for installation of utility service.

B. The City will install the sewer service from the main to right-of-way/property line of the premises, if the main is in the street, or to a point in a City right-of-way or easement.

C. The customer or property owner must furnish, install and keep in good and safe condition equipment that may be required for receiving, controlling, applying and utilizing any city utility, and the customer or property owner must do so at their own risk and expense.

D. The City is not responsible for loss or damage caused by the improper installation of the equipment used for receiving a City utility service by customer or customer's agent, or the negligence, want of proper care, or wrongful act in installing, maintaining, using, operating or interfering with the equipment by the customer or customer's agent.

E. The City is not responsible for damage to property caused by City's regular cleaning and maintenance of sewer main lines.

F. A customer making any material change in the size, character or extent of the equipment or operation utilizing sewer service, or whose change in operations results in a large increase in the use of water, shall immediately give the City written notice of the nature of the change and, if requested, amend the customer's application.

G. Any utility service connection, whether located on public or private property, is the property of the City, and the City reserves the right to repair, maintain and/or replace it.

13.08.410 Inspection and maintenance – Responsibility.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City, wherein such facilities are connected to the proper public sewer in accordance with this Chapter, are responsible for the maintenance and cost of maintaining the private service lateral.

13.08.420 Inspection and maintenance – Testing, cleanouts, and right of entry.

A. The Director of Public Works and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties, upon prior written notice, to make tests of private service lateral piping to determine whether such piping is adequately watertight.

B. The property owner shall be responsible to supply cleanout at or adjacent to the house or buildings upon 10 business days' written notice by the City. Such cleanout shall be the same size as the service lateral piping and shall conform to the City of Molalla standard specifications for service lateral cleanout.

C. The City may elect at its cost to construct a service lateral cleanout on public right-of-way for use in testing and/or repairing of service lateral piping. The cleanout shall conform to City standards.

13.08.430 Inspection and maintenance – Grease traps and interceptors.

Where grease, oil and sand interceptors are required under MMC 13.08.530, monthly cleaning records of traps and interceptors and monthly disposal records of grease, oils and sand shall be maintained and made available for inspection in a form established by the City.

13.08.440 Improper connection and notice to repair.

A. Where the City finds that any private service lateral piping is leaking or not legally connected, the property owner will be notified in writing by the City to make necessary repairs. The notification shall include the type of repairs to be made and the date, no less than 30 calendar days from the date of the notice, by which the repairs shall be completed.

B. The property owner may elect to have the City repair or replace private service laterals by notifying the Director of Public Works in writing. The property owner may then contract with the City for such repairs.

C. The City shall contract out the work and charge for any in-house labor and materials so furnished.

D. Upon completion of repairs, the City shall provide a written accounting to the property owner prepared by the Director of Public Works.

E. The property owner shall pay the City for the repairs by paying no less than one-twelfth (1/12) the cost of the improvements as a surcharge on the sewer bill until the outstanding amount has been paid in full. The City shall charge no interest on the unpaid balance.

F. The City does not assume any obligation for reasonably necessary damage to landscaping, vegetation and walkways caused by repair work, and the property owner shall be solely responsible for repairing or replacing such damages.

13.08.450 Nonconformance – Notice.

A. Any property owner who fails to comply with the provisions of MMC 13.08.410 through 13.08.440 shall be deemed to possess a private service lateral not in conformance.

B. The Director of Public Works shall notify by mail each property owner he or she determines is in violation at the address of such owner as listed on the latest tax rolls of the Tax Assessor for Clackamas County, Oregon. The notice shall set forth the basis for such alleged violations along with an explanation of the consequences of having a service lateral not in conformance. The notice shall include notification of the right to a hearing as described in this section.

C. Within 10 business days of the mailing of the notice described in subsection B of this section, the property owner may request a hearing before the City Manager. At such hearing the City Manager shall determine whether or not the property is in violation as alleged. Unless such request for a hearing is filed within the time provided by this Section, the property owner shall be deemed to possess a service lateral

not in conformance. If the property owner is found to be in violation at the hearing by the City Manager, then the property owner's service lateral shall be deemed not in conformance. The property owner may appeal the decision of the City Manager within 10 business days of such decision by filing a written notice of appeal with the City Manager. Appeals shall be heard by the City Council.

13.08.460 Nonconformance – Charges.

Any property owner who maintains a private service lateral not in conformance with the maintenance requirements of this article shall be assessed a monthly sewer charge triple the normal rate until the private service lateral is brought into conformance with the requirements of this Chapter.

13.08.470 City may assume cost of repairs.

At such times that the City Council shall determine by Resolution that it is in the public interest to repair a service lateral or group of service laterals without delay the City may repair such lateral at the City's expense without prior testing of such lateral and with the consent of the property owner without notice as provided in MMC 13.08.410 through 13.08.440.

13.08.480 Damage to sewage works prohibited.

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

13.08.490 Entry on property.

The Director of Public Works and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The Director of Public Works or representative shall also have the authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for wastes treatment.

13.08.500 Observance of safety rules—Liability of City.

While performing the necessary work on private properties referred to in MMC 13.08.490, the Director of Public Works or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

13.08.510 Entry and work on easements.

The Director of Public Works and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

13.08.520 Certain discharges subject to approval.

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 Director of Public Works that such wastes can harm either the sewer, 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 forming his or her opinion as to the acceptability of these wastes, the Director of Public Works will give consideration to such factors as to quantities of subject wastes in relation to flows and velocities in the sewer, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- A. Any liquid or vapor having a temperature higher than 150°F (65°C);
- B. Any water or waste containing fats, gas, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65°C);
- C. Any garbage that has not been properly 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 Director of Public Works;
- D. Any waters or wastes containing strong acid from 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 a degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Director of Public Works 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 Director of Public Works 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 Director of Public Works 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:
 - 1. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate),
 - 2. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions),
 - 3. Unusual BOD, biochemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works,
 - 4. 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.

13.08.530 Decision of Director of Public Works regarding harmful wastes.

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 MMC 13.08.520 and which, in the judgment of the Director of Public Works, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, nuisance, the Director of Public Works shall:

- 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 MMC 13.08.520 through 13.08.550 If the Director of Public Works 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 Director of Public Works, and subject to the requirements of all applicable codes, ordinances and laws.

13.08.540 Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the Director of Public Works, 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 Director of Public Works and shall be located as to be readily and easily accessible for cleaning and inspection. All maintenance and cleaning shall be performed at the owner's expense, and as required by the Director of Public Works.

13.08.550 Restricted Discharges and Pretreatment.

- A. Standard methods for testing and analysis.
 - 1. All measurements, tests and analyses of the characteristics of water and waste to which reference is made in the utility code shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at such control manhole. In the event that no special manhole is required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.
 - 2. Sampling shall be carried out by customarily accepted methods to reflect the effect the effluent may be having on the sewer works and to determine the possible impact to the public welfare.
- B. Sanitary sewers – Prohibited discharges.
 - 1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or polluted industrial process waters to any sanitary sewer.
 - 2. Dilution. No Industrial User may increase the use of potable or process water in any way, for the purpose of diluting wastewater to achieve compliance with the standards set forth in this code.
- C. Storm sewer use requirements.

1. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Director of Public Works. Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet, upon written approval of the Director.

D. Nonpermitted discharges designated.

1. No person shall discharge or cause to be discharged any one 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; nor any kerosene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides;
- b. Any water or waste containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other waste, 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 of cyanide in the waste as discharged to the public sewer;
- c. Any water and waste 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. Solids or visceral 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, feathers, tar, asphalt, lubricating oil, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

E. Prohibited discharges.

1. 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 Director of Public Works or designee, that such wastes can harm either the sewer system, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger public health, safety or welfare, or constitute a nuisance. In forming such opinion, the Director of Public Works or designee will give consideration to such factors as to quantities of waste in relation to flows and velocities in the sewer system, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of waste in the sewage treatment plant, and other pertinent factors.

2. The substances prohibited are:

- a. Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees centigrade);
- b. Any water or waste containing fats, gas, grease or oils, whether emulsified or not, in excess of 100 mg/l, or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees centigrade), or which has a temperature which will inhibit biological activity in the treatment plant, and

in no case wastewater with a temperature at the introduction into the treatment plant receiving water which exceeds 105 degrees Fahrenheit (40 degrees centigrade);

c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower or greater shall be subject to the review and approval of the Director of Public Works;

d. Any water or waste containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not;

e. Any water or waste containing iron, chromium, copper, zinc, lead, nickel, silver, mercury, cadmium or other similar toxic substances which exceed EPA or DEQ standards;

f. Any water or waste containing high concentrations of phenols or other taste- or odor-producing substances;

g. Any radioactive waste or isotopes of such half-life or concentration as may exceed state or federal requirements;

h. Any water or waste having a pH in excess of 9.5;

i. Materials which exert or cause:

1). Unusual concentrations of inert suspended solids, such as fuller's earth, lime slurries and lime residues, or of dissolved solids such as sodium chloride and sodium sulphate,

2). Excessive discoloration, such as dye waste and vegetable tanning solutions,

3). Unusual BOD or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works,

4). Unusual volume of flow or concentration of waste constituting slugs, as defined in MMC 13.08.010;

j. Water or waste 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 water.

F Rejection or pretreatment conditions.

1. 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 outlined in MMC 13.08.550.E, and which may have a detrimental effect upon the sewage works, processes, equipment or receiving water, or which otherwise may create a hazard to life or constitute a public nuisance, the Director of Public Works may:

a. Reject the wastes;

b. Require pretreatment to an acceptable condition for discharge to the public sewer;

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

d. Require payment to cover any increase of administering the wastewater permit, the added cost of chemicals needed to address the situation, and the added cost of handling and treating the wastes not covered by existing taxes, fees or other charges under the provisions of the utility code.

G. Grease, oil and sand interceptors.

1. When required by the Director of Public Works, interceptors shall comply with MMC 13.08.540.

H. Pretreatment facilities – Operation and maintenance.

1. Where preliminary treatment or flow-equalizing facilities are provided for any water or waste, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's own expense.

I. Control manhole for tests.

1. When required by the Director of Public Works, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Director of Public Works. Any cost to the City for required non-City sampling or testing shall be paid by the owner affected. The manhole shall be installed by the owner at the owner's own expense and shall be maintained by the owner so as to be safe and accessible at all times.

J. Special agreements not restricted.

1. No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor, by the industrial concern, and provided such agreement is in compliance with EPA and DEQ regulations.
2. When requested, an industrial user must submit information on a survey form prepared by the Director of Public Works before commencing discharge into the City wastewater system, identifying the nature and characteristics of the user's wastewater. The Director may periodically require industrial users to update the survey. Failure to complete this survey within the time set by the Director is grounds for terminating service to the industrial user.

K. Discharges prohibited without a permit.

1. No industrial user shall discharge wastewater into the City's municipal wastewater system without first obtaining a wastewater permit.
2. No permittee shall violate the terms and conditions of a wastewater permit issued pursuant to this chapter. Obtaining a wastewater permit does not relieve a permittee from the obligation to obtain other permits required by federal, state, or local law.

L. Permitting existing connections.

1. Any industrial user, not already possessing a permit, that discharges industrial waste into the City wastewater system prior to the effective date of this chapter and who wishes to continue such discharges in the future shall, within 90 calendar days after the effective date, apply to the City for a wastewater permit, and shall not cause or allow discharges to the system to continue after 180 calendar days of the effective date except in accordance with a permit issued by the Director of Public Works.

M. Permitting new or renewed connections.

1. Any industrial user proposing to begin or to recommence discharging industrial wastes directly or indirectly into the City wastewater system must obtain a wastewater permit prior to beginning or recommencing such discharge.
2. An application for a permit renewal must be received at least 90 calendar days before the current permit expires.

N. Wastewater permit issuance.

1. Within 60 calendar days of the date the Director of Public Works deems a permit application complete, the Director will evaluate the data furnished by the industrial user and determine whether a wastewater permit should be issued. The Director will issue a permit within said 60 calendar days unless a circumstance identified in subsection (B) of this section exists.
2. If any wastewater proposed to be discharged to the City wastewater system contains substances identified or possesses the characteristics enumerated in MMC 13.08.550.D and 13.08.550.E which, in the Director's judgment, may have a deleterious effect upon the City wastewater system, processes, equipment, or waters of the state, or otherwise create a hazard to life or constitute a public nuisance, the Director may:
 - a. Refuse to permit the discharge;
 - b. Require pretreatment to an acceptable condition for discharge into the City wastewater system; or
 - c. Require control over the quantities and rates of discharge.

O. Wastewater permit duration.

1. Permits shall be issued for a time period of five years. Each permit shall indicate the specific date upon which it will expire.

P. Wastewater permit contents.

1. A wastewater permit shall include such conditions deemed reasonably necessary by the Director of Public Works, or designee, to prevent pass through or interference and to implement the objectives of this chapter. Wastewater permits shall, at a minimum, contain:
 - a. A statement of permit duration;
 - b. A statement the permit is nontransferable;
 - c. Effluent limits applicable to the industrial user, including best management practices, based on applicable pretreatment standards in 40 CFR Part 403, categorical pretreatment requirements, local limits, and state and local law;
 - d. Monitoring, sampling, reporting, notification, and record keeping requirements, including an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
 - e. Statement of applicable penalties for violation of pretreatment standards, pretreatment requirements, and compliance schedules; and
 - f. Requirements to control spills or slug discharges as determined necessary by the POTW, including conditions for emergency suspension of the permit, or conditions thereof.
2. Permits may contain:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- b. Limits on the instantaneous daily and monthly average, and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;
- c. Requirements for the installation of pretreatment technology or construction of appropriate containment devices or other similar technologies or devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- d. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
- e. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the City wastewater system;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- g. Specifications for monitoring programs, which may include designation of sampling locations and frequency of sampling; the number, types, and standards for tests; and reporting schedules;
- h. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 calendar days of such noncompliance where monitoring indicates a violation;
- i. Compliance schedules for meeting pretreatment standards and pretreatment requirements;
- j. Requirements for submission of periodic monitoring or special notification reports;
- k. Requirements for maintaining and retaining plant records relating to wastewater discharge, and affording the Director or his designee access thereto;
- l. Requirements for prior notification and approval by the Director of Public Works, or designee, of any introduction of new wastewater pollutants or any unpermitted change in the volume or character of wastewater prior to introduction in the City wastewater system;
- m. Requirements for prior notification to and approval by the Director of any significant change in the manufacturing and/or pretreatment process;
- n. Requirements for immediate notification of excessive, accidental, or slug discharges, or other discharge which may cause any problems to the City wastewater system;
- o. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards and pretreatment requirements, including those which become effective during the term of the permit; and
- p. Other conditions deemed appropriate by the Director to ensure compliance with this chapter; state and federal laws, rules, and regulations; and the terms of the permit.

Q. Wastewater permit appeals.

1. Any person, including the permittee, may appeal the conditions imposed in a permit, or the issuance or denial of a permit within 10 business days of the issuance of the final permit by filing a notice of appeal, as provided for in MMC 13.08.550.KK. Failure to submit a timely notice of appeal shall be a waiver of all rights to administrative review.
2. In addition to the requirements in MMC 13.08.550.KK, the appellant shall indicate the specific objection, the reasons for the objection, and alternative conditions, if any, the appellant seeks to have placed in the permit.
3. The effectiveness of the permit shall not be stayed pending resolution of appeal.

R. Wastewater permit modifications.

1. The Director of Public Works may modify a permit for good cause including, but not limited to, the following:
 - a. To incorporate any newly revised federal, state, or local pretreatment standards or pretreatment requirements;
 - b. To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of permit issuance;
 - c. A change in the City wastewater system that requires either a temporary or permanent reduction or elimination of the permitted discharge;
 - d. Information indicating that the permitted discharge poses a threat to the City wastewater system, City personnel, or waters of the state;
 - e. Violation of any terms or conditions of the wastewater permit;
 - f. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;
 - g. A revision or grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13; or
 - h. To correct typographical or other errors in the permit.
2. The filing of a request by the permittee for a permit modification does not stay any permit condition.

S. Wastewater permit transfer.

1. Permits may not be reassigned or transferred from the permittee to a new industrial user.

T. Wastewater permit reissuance.

1. An industrial user shall apply for permit reissuance by submitting a complete permit application no later than 90 calendar days before the expiration of the user's permit.

U. Reports of potential problems.

1. If an accidental, slug, or other discharge occurs which may cause problems for the City wastewater system, the user shall immediately notify the City by telephone and email of the incident. Notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user. Telephone numbers and email information are provided on the Public Works pages of the City's website.
2. Unless waived by the Director, within five business days following an accidental discharge, the user shall submit a detailed written report describing the cause of the discharge and the measures

to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any fines, civil penalties, expense, loss, damage, or other liability that may be incurred or imposed as a result of damage to the City wastewater system, natural resources, or persons or property.

3. Failure to notify the City of potential problem discharges shall be deemed a separate violation of this chapter.

4. Industrial users shall prominently post a notice on a bulletin board or other similar place readily accessible to the user's employees, advising the employees of whom to call in the event of a potential problem discharge, and shall train all employees in the emergency notification procedure.

5. Where the City has performed the sampling and analysis in lieu of the industrial user, the control authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling may not be required if:

a. The City performs sampling at the industrial user at a frequency of at least once per month, or the City performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling.

b. Cost to the City for repeat analysis may be recouped per MMC 13.08.530.

V. Reports of significant production change.

1. An industrial user operating under a waste discharge permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the City within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the City of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate. For purposes of this section the term "significantly" will be defined in the permit. An industrial user is not required to report or warn of a production change unless it will change the industrial discharge to an extent not allowed by the industrial user's permit.

W. Inspection and sampling.

1. An industrial user shall allow the City to enter the facilities of the user without unreasonable delay, to ascertain whether the user is complying with pretreatment standards and pretreatment requirements. Industrial users shall allow the Director of Public Works, or designee, ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

2. If an industrial user has security measures that require identification and clearance before entry, the industrial user shall make necessary arrangements with its security guards so that upon presentation of proper identification personnel from the City, state, and the EPA will be permitted entry without unreasonable delay to perform their specific responsibilities.

3. The City, state, and the EPA shall have the right to set up or require installation of such devices as are necessary to conduct sampling and/or metering of the industrial user's operations.

4. The City may require the industrial user to install all necessary monitoring equipment. The facility's sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the industrial user at the industrial user's expense. A qualified technician

must calibrate all devices used to measure wastewater flow and quality at least twice yearly to ensure accuracy.

5. Any obstruction to safe and easy access to the industrial facility shall be promptly removed by the industrial user at the request of the Director and shall not be replaced. The costs of removal shall be borne by the industrial user.

6. Unreasonable delays in allowing City personnel access to the industrial user's premises shall be a violation of this chapter.

X. Search warrants.

1. If the Director is refused access to a building, structure, or property, or any part thereof, and has probable cause to believe there may be a violation to this chapter or needs to conduct an inspection as part of a routine program designed to protect the overall public health, safety, and welfare of the community, the Director may apply for a search warrant from a court of competent jurisdiction. The application shall identify the specific location to be searched and shall specify what locations may be searched and what property may be seized. After issuance, the Director will serve the warrant at reasonable hours.

Y. Confidential information.

1. Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, monitoring programs, and City inspection and sampling activities shall be available to the public without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the City Attorney that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets, and are exempt from disclosure under applicable law.

2. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 are not confidential and will be available to the public without restriction.

3. Any information determined to be exempt from disclosure under subsection 1 of this section shall remain confidential, and portions of a report which might disclose trade secrets or secret processes shall not be available for public inspection; provided, that such information shall be made available to governmental agencies for uses related to this chapter or the NPDES program. Notwithstanding subsection 1 of this section, no information is confidential if the information is relevant to, and necessary for, enforcement proceedings involving the person furnishing the report.

4. For the purposes of this section, a specific request is made when the words "confidential business information" are stamped on each page containing such information. If no such specific request is made at the time of furnishing the report, the City may make the information available to the public without further notice.

5. All costs, expenses and attorney's fees associated with defending a request for confidential information shall be the responsibility of the industrial user requesting confidentiality.

Z. Notification of violation.

1. Whenever any industrial user has violated or is violating this chapter, a wastewater permit or order issued hereunder, or any pretreatment standard or pretreatment requirement, the Director may issue a written notice of violation. Within 10 business days of the receipt of this notice, the industrial user shall submit an explanation of the violation and a detailed plan for the satisfactory

correction of the violation and the prevention of future violation. Submission of this plan does not relieve the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the City authority to take emergency action without first issuing a notice of violation.

AA. Consent orders.

1. The Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with an industrial user to resolve issues of noncompliance. Such orders shall include the specific action to be taken by the industrial user to correct noncompliance within a time period specified in the order. Consent orders shall be judicially enforceable, and any costs, including attorney's fees, incurred by the City in seeking such enforcement shall be assessed against the industrial user as part of any judgment entered therein.

BB. Compliance orders.

1. When the Director finds an industrial user has violated or continues to violate any provision of this chapter, or a permit or order issued hereunder, or any pretreatment standard or pretreatment requirement, the Director may issue an order discontinuing the industrial user's sewer service unless compliance is obtained within a time certain stated in the order. Compliance orders may contain other requirements necessary and appropriate to correct noncompliance, including additional monitoring and changes to management practices designed to minimize the amount of pollutants discharged to the City wastewater system. The Director may require additional monitoring for at least 90 calendar days after consistent compliance has been achieved, after which monitoring conditions set forth in industrial user's discharge permit shall be followed.

CC. Cease and desist orders.

1. When an industrial user has violated or continues to violate any provision of this chapter, permits or orders issued hereunder, or any pretreatment standard or pretreatment requirement, the Director may issue a notice and proposed order to the industrial user to cease and desist all such violations and commanding the user to:

- a. Immediately comply with all requirements.
- b. Take such appropriate remedial or preventive action as may be needed to properly address the continuing or threatened violation, including halting operations and/or terminating the discharge.

2. The Director may order any industrial user that causes or contributes to a violation of this chapter, wastewater permits or orders issued hereunder, or any pretreatment standard or pretreatment requirement to appear and show cause why a cease and desist order should not be issued.

3. The City will serve notice on the industrial user specifying the time and place for hearing, the nature of the proposed enforcement action, the reasons for such action, and a direction that the user appear and show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served upon the industrial user or the user's authorized representative, personally or by registered or certified mail, return receipt requested, at least 10 business days prior to the hearing. A cease and desist order may be issued immediately following the hearing.

DD. Emergency suspensions.

1. The Director may immediately suspend any user's discharge that threatens to interfere with the operation of the City wastewater system, endangers the environment, or may cause violation of the NPDES permit.
2. Any user notified of a suspension of its discharge shall immediately terminate all discharges into the City wastewater system. In the event a user fails to immediately and voluntarily comply with the suspension order, the Director may take such steps deemed necessary, including immediate severance of the user's connection to the City wastewater system. The Director may allow the user to recommence discharge when the user demonstrates to the satisfaction of the Director that endangerment has passed, unless termination proceedings under MMC 13.08.550.JJ have been initiated.
3. No hearing shall be required prior to any emergency suspension.

EE. Permit revocation.

1. An industrial wastewater permit may be revoked if the user:
 - a. Fails to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
 - b. Fails to accurately report wastewater constituents and characteristics of its discharge;
 - c. Falsifies monitoring reports;
 - d. Refuses reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;
 - e. Tampers with monitoring equipment;
 - f. Refuses to allow the City timely access to the facility premises and records;
 - g. Fails to meet effluent limitations;
 - h. Fails to pay fines;
 - i. Fails to pay sewer charges;
 - j. Fails to meet compliance schedules;
 - k. Fails to complete a wastewater survey; or
2. Violates any pretreatment standard or pretreatment requirement, the user's permit, any order issued pursuant to this chapter, or any provision of this chapter.
3. Industrial users shall be notified of proposed termination and be offered an opportunity to appear and show cause why the permit should not be revoked. Termination of a permit shall not be a bar to, or a prerequisite for, taking any other enforcement action against the user.
4. Notice shall be served on the industrial user specifying the time and place for the show cause hearing, the reasons for permit revocation, and a direction that the user appear and show cause why the permit should not be revoked. The notice of the hearing shall be served upon the industrial user or the user's authorized representative personally or by registered or certified mail, return receipt requested, at least 10 business days prior to the hearing. An order revoking the permit may be issued immediately after the hearing.

FF. Injunctive relief.

1. In addition to other relief, the City Attorney may petition a court of competent jurisdiction for the issuance of temporary or permanent injunction to restrain a violation, or compel specific

performance, of the terms and conditions of the wastewater permit, order, pretreatment standard or pretreatment requirement, or other provision of this chapter.

GG. Civil penalties – Industrial users only.

1. The Director may impose upon any industrial user that has violated or continues to violate this chapter, any order or permit hereunder, or any pretreatment standard or pretreatment requirement a maximum civil penalty of \$2,500 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties may accrue for each day during the period of this violation.
2. Where appropriate, the Director may accept mitigation projects in lieu of the payment of civil penalties where the project provides a valuable service to the City and the industrial user's expense in undertaking the project is at least 150 percent of the civil penalty.
3. For purposes of this section, the term "civil penalty" means the same as the term "administrative fine" as set forth in any enforcement response plan adopted by the City Council pursuant to this chapter's authority. Any civil penalty assessed pursuant to this section will be based on the severity of the violation using the factors outlined in the enforcement response plan.

HH. Civil penalties – Nonindustrial users.

1. A violation of MMC 13.08.550.GG or 13.08.550.N is punishable by a civil penalty not exceeding \$2,500.
2. A violation of any other provision of this chapter is punishable by a civil penalty of \$1,000.00 in accordance with MMC 1.04.
3. Any civil penalty assessed pursuant to this section will be based on the severity of the violation using the factors outlined in a City Council-adopted enforcement response plan, even if the offender is not a party to that plan.

II. Remedies nonexclusive.

1. The Director of Public Works shall prepare an enforcement response plan to be adopted by a resolution of the City Council for use with industrial users related to any violation of this chapter. The remedies provided for in this chapter are not exclusive, and the Director may take any, all, or any combination of these actions against a noncompliant user, and may bring more than one enforcement action against any noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan; however, the Director may take other action against any user when the circumstances warrant.

JJ. Water supply severance.

1. Whenever an industrial user has violated or continues to violate the provisions of this chapter or orders or permits issued hereunder, water service to the industrial user may be severed and service will only be resumed, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

KK. Administrative review.

1. Any person aggrieved by any decision or action of the Director may appeal such decision or action as provided in this section.
2. The appeal must be filed with the City Manager within 30 calendar days after the date of the decision or action being appealed, must be in writing and must state:

- a. The name and address of the appellant;
- b. Nature of the decision or action being appealed;
- c. The reason the decision or action is incorrect; and
- d. What the correct decision or action should be.

Within 10 business days of an appeal being filed with the City Manager, the City Manager will meet with the appealing industrial user and attempt to resolve the matter prior to action by the City Council.

3. An appellant who fails to file such a statement within the time permitted waives all objections, and the appeal shall not be considered.
4. Unless the appellant and City agree to a longer period, an appeal shall be heard by the City Council within 45 calendar days of the receipt of the notice of appeal. At least 10 business days prior to the hearing, the City shall mail notice of the time and location of the hearing to the appellant.
5. The City Council will hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the council deems appropriate. At the hearing, the appellant may present testimony and oral arguments personally or by counsel.
6. If the appeal is from the modification of a permit pursuant to the imposition of a civil penalty, the burden is on the Director to prove that the modification or civil penalty was proper. If the appeal is from the denial of a permit, the burden is on the appellant to prove that the denial was improper. In all other cases the burden of proof is on the proponent of a fact or position.
7. The City Council will issue a written decision within 30 calendar days of the hearing date. The decision of the City Council is final.
8. An appeal fee established by Council Resolution must accompany the statement of appeal.

13.08.560 Reporting of harmful discharges.

Businesses are required to accurately report chemical discharges to the sewerage system and other discharges that may affect the sewerage system as directed by the Director of Public Works via survey or other means as pre-approved by the Director of Public Works or designee.

13.08.570 Construction – Public works design standards.

Sanitary sewers shall be designed in compliance MMC 12.12 for all public improvements and the Oregon Plumbing Specialty Code for all private plumbing services.

13.08.580 Construction – Construction specifications.

Sanitary sewers shall be constructed in compliance MMC 12.12 for all public improvements. All building sewers shall be constructed in compliance with the Oregon Plumbing Specialty Code, except where higher standards apply within the utility code.

13.08.590 Construction – Permit required for sewer work.

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 Director of Public Works.

13.08.600 Construction – Building sewer permit classes and application.

A. There are two classes of building sewer permits:

1. For residential and commercial service;
2. For service to establishments producing industrial wastes.

B. In either case, the owner or the owner's agent shall make application on a form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent, in the judgment of the Director of Public Works. No permit shall be issued until all required fees have been paid. Permit fees shall be established and revised by City Council Resolution.

13.08.610 Construction – Cost of installation and connection.

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. It shall be the responsibility of the owner, lessee or occupant of a building to maintain the building sanitary sewer or private collection system in a free-flowing and watertight condition, from the structure served to the public sewer. All existing private sewers shall be maintained in a safe and sanitary condition.

13.08.620 Construction – Cleanout specifications.

At the connection with the public sewer and the building sewer, there shall be a cleanout of the same material as the public sewer connection pipe furnished by the owner. The cleanout shall extend vertically to within six inches of the finished ground surface and shall be sealed with an approved cap or plug. This riser shall be used for inserting a test plug for water or air testing the building sewer, and as an auxiliary cleanout. Backfilling around the riser shall be done in such a manner as not to damage the pipe.

13.08.630 Construction – Separate sewers for each building.

Every building sewer shall be separate and independent of any other building, whether connecting to a public or private sewer.

13.08.640 Construction – Private sewer restrictions.

Private sewer lines shall only be allowed where the building or buildings affected are located on a single parcel of land. Private sewer connections to public sewer shall be subject to the same design and construction standards as public sewers of the city and shall be subject to complete review and approval by the Director of Public Works.

13.08.650 Construction – Leaks and extraneous discharges – Monitoring procedures.

A. New and existing private sewers, building drains and building sewers will be monitored for leaks or discharges of extraneous water. This monitoring may take the form of, but is not limited to:

1. Direct visual observation;
2. Indirect measurement;
3. Tele-inspection; or
4. Air or water pressure tests, smoke tests, or exfiltration tests.

B. If, in the opinion of the Director of Public Works, such monitoring shows a sewer to be defective, no further proof is needed for the Director to require the sewer to be repaired to current standards.

C. Existing sewer exceeding a maximum allowable infiltration/inflow rate of more than 300 gallons per day per single detached dwelling unit, or 1,200 gallons per acre per day, are deemed unsafe and unsanitary and shall be repaired.

D. Those users who do not comply with these infiltration/inflow regulations shall have a period of time, as determined by the Director of Public Works, but not to exceed six months, to reach compliance with the regulations.

13.08.660 Construction – Capping and inspection prior to abandonment.

A. Before a moving or demolition permit is allowed to be issued, evidence must be presented showing the sewer has been properly capped and inspected. No exceptions will be allowed. All building sanitary sewer shall be capped at the public main in an approved manner by the applicant or the applicant's contractor and inspected by City forces prior to closure of the excavation.

B. Exception. If adequate proof can be given showing a sewer service is in usable condition and is to be reused, the inspector may allow the service to be capped at the property line. It is the applicant's responsibility to ensure that no other structure is connected to the sewer service being abandoned. If the line abandoned is serving more than one structure, a service connection for the structure(s) still using the service must be provided. If the Director of Public Works determines that capping at the main will cause undue hazard to the public, or if a street has been recently resurfaced, a variance to this section may be granted to require that the sewer be capped as close to the main as practical.

13.08.670 Construction – Public Works Inspection fees.

A. The construction inspection services and fee is mandatory and not subject to request by the property owner. All construction costs must be verified from actual invoices and receipts when the City is not responsible for contract administration.

B. The City Council will establish the fees, rates and charges for the City's inspection services by Resolution.

13.08.680 Construction – Bonding and insurance.

Bonding and insurance for utility construction will be as provided in the Molalla Municipal Code or the Public Works design standards adopted MMC 12.12.

13.08.690 Construction – Sewer main extensions.

Whenever a public improvement is to construct or extend a sewer main, the following shall apply:

A. Extension of all lines will be to the farthest edge of the property requesting service, unless otherwise authorized by the Director of Public Works.

B. Minimum pipe sizes shall be in compliance with the Public Works Standards unless otherwise approved by the Director of Public Works.

C. When required by the City, the City will share in the cost of sewer lines larger than the minimum size provided in MMC 13.08.690.B by paying the difference in cost between a minimum size pipe and the larger size, except:

1. When a new development requires a larger line to provide adequate service, as determined by the Director of Public Works;
2. Only pipe and fitting materials will be paid by the city unless the line size is greater than 10 inches in diameter.

D. The property owner requesting the extension must pay the cost for extending new sewer lines. If a property owner requests service from a portion of the sewer line provided by the original developer, then

the city shall collect a proportionate share of the sewer line cost, and reimburse the original developer or assignee that amount, less administrative costs. This reimbursement policy shall continue for 10 years from the date of line construction, and then end.

E. When service is requested by a developer from an existing line less than six inches in diameter, the city engineer will determine if both fire protection or domestic flow are adequate.

1. If fire protection is not adequate to either the new structure or neighboring structures, but domestic flow is adequate, then service will be allowed. However, an advance assessment or waiver of remonstrance for the cost of future upgrading of the line will be collected or obtained before any service connections are completed.

2. If both fire protection and domestic flow are inadequate, the developer must replace all lines necessary to adequately supply both fire and domestic flows as determined by the city engineer; however, in no case will the line be replaced to a size less than six inches in diameter. If the property or properties were previously assessed by the city for an undersized line, a credit will be given toward construction of a new line. The developer shall initiate the request for credit, and shall provide written documentation to the satisfaction of the city manager that the assessment is valid. Upon construction of the new line, the developer shall have the right of reimbursement from new water users on the new line. The right to reimbursement shall continue for a period of 10 years and then end.

F. Costs of any construction pursuant to the utility code shall include not only the water line, but also the cost of replacing street paving, sidewalks, driveways, and other improvements damaged during construction.

13.08.700 Violation—Notice.

Unless otherwise stated in section of this Chapter, any person found to be violating any provision of this chapter shall be served by the City with written notice stating the nature of the violation and providing a 14-day time limit for the satisfactory correction thereof.

13.08.710 Violation—Penalty.

Any person who continues any violation beyond the time limit provided for in MMC 13.08.700 shall be guilty of a violation and, on conviction thereof, shall be fined in the amount set by Council resolution or subject to fines established per code MMC 1.04.010, general provisions for each violation. Each day in which any such violation continues shall be deemed a separate offense. Failure to comply with a written directive or timeline of the City Manager made under the authority of this chapter is a punishable offense and may result in a temporary loss of City water and sewer services.

13.08.720 Violators liable to City.

Any person violating any of the provisions of this chapter shall become liable to the City for any expense, loss, or damage occasioned by the City of Molalla by reason of such violation.

DRAFT

City of Molalla

City Council Meeting



Agenda Category: New Business

Subject: Revised Chapter Ch 13.12 Sewer & Water Main Extensions

Recommendation: Instruct Staff to Prepare Ordinance for Adoption by City Council

Date of Meeting to be Presented: February 26, 2020

Fiscal Impact: N/A

Background:

On January 22, 2020, Council held a work session to review language changes to Chapter 13.12 of the Molalla Municipal Code. Staff prepared code and made changes per City Councils consensus. This agenda items will allow for any final edits to the proposed ordinance before adoption.

Recommended Motion: Direct staff to prepare Ordinance to replace Chapter 13.12.

or

Recommended Motion: Direct staff to prepare Ordinance to replace Chapter 13.12 as amended.

SUBMITTED BY: Gerald Fisher, Public Works Director
APPROVED BY: Dan Huff, City Manager

Chapter 13.12 SEWER AND WATER MAIN EXTENSIONS

13.12.010 Extension of mains by City.

Any extension of a sanitary sewer, storm sewer or water main by the City shall be at the discretion of the City and only if adequate funding for engineering, construction, and ongoing maintenance is available.

13.12.020 Costs paid by persons requesting extensions.

Any extension of a sanitary sewer, storm sewer or water main that is not in accordance with 13.12.010 shall be paid for by the person, firm, or corporation requesting such extension. The amount paid shall be the actual cost of engineering and construction plus 10% for City supervision and overhead. All such extension shall be made by the City of Molalla or by a contract approved by the City in accordance with standards and specifications governing such work and materials. The City of Molalla shall determine the size and location of the water and sewer mains and appurtenances in accordance with current standards and policy.

13.12.030 Location.

All sanitary sewer, storm sewer or water main extensions shall be made within a public right-of-way to a point opposite the furthestmost point on the person's property making agreement for the extension. The extensions may be terminated at a lesser point if it is found that the extension cannot be extended to serve other properties in the area, due to existing development or topography, if approved by the City.

13.12.040 Advance payment of costs.

Advance payment for extensions including engineering, construction and overhead shall be made by the owner or owners of property for which service is desired. The advance payment shall be made in accordance with an estimate of cost by the City in accordance with approved plans and specifications. Work shall not proceed until payment has been made for the full amount of the proposed work including engineering and 10% for overhead.

13.12.050 Tabulation of costs after completion.

After completion of the work, a tabulation of costs shall be prepared by the City and any excess money deposited prior to the work shall be refunded to the depositor, and any deficiencies shall be forthwith paid to the City of Molalla by the depositor or owner as the case may be.

13.12.060 City ownership and maintenance.

All sanitary sewer, storm sewer or water main and appurtenances installed shall become the sole property of the City of Molalla, and furthermore shall be maintained and operated by the City.

City of Molalla

City Council Meeting



Agenda Category: New Business

Subject: Revised Chapter Ch 13.13 Surface Water Management

Recommendation: Instruct Staff to Prepare Ordinance for Adoption by City Council

Date of Meeting to be Presented: February 26, 2020

Fiscal Impact: N/A

Background:

On February 12, 2020, Council held a work session to review language changes to Chapter 13.13 of the Molalla Municipal Code. Staff prepared code and made changes per City Councils consensus. This agenda items will allow for any final edits to the proposed ordinance before adoption.

Recommended Motion: Direct staff to prepare Ordinance to replace Chapter 13.13.

or

Recommended Motion: Direct staff to prepare Ordinance to replace Chapter 13.13 as amended.

SUBMITTED BY: Gerald Fisher, Public Works Director
APPROVED BY: Dan Huff, City Manager

Chapter 13.13 SURFACE WATER MANAGEMENT

13.13.010 Definitions.

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

“**Auxiliary water supply**” means any water supply on or available to the premises, other than the City’s approved public potable water supply. These auxiliary waters may include water from another provider’s public potable water supply, or any natural source(s) such as a well, spring, river, stream, harbor, etc., or “used waters” or “industrial fluids.” These waters may be polluted or contaminated, or they may be objectionable and constitute an unacceptable water source over which the City does not have sanitary control.

“**Back-siphonage**” means the flow of water or other liquids, mixtures or substances into the distributing pipes of a potable water supply system, from any source other than its intended source, caused by the sudden reduction of pressure in the potable water supply system.

“**Backflow**” means the flow of water or other liquids, mixtures or substances under pressure into the distributing pipes of a potable water supply from any source or sources other than its intended source.

“**Backflow preventer**” means a device or means designed to prevent backflow or back-siphonage.

“**Building drain**” means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building, and conveys it to the building storm sewers, beginning five feet outside the inner face of the building walls.

“**Building sewer**” means that part of the horizontal piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to a public sewer at the public right-of-way or easement, private sewer, individual sewage disposal system, or other point of disposal.

“**Business day**” or “working day” means Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding any City-recognized holidays.

“**Commercial business**” means a business establishment which furnishes goods or services to either the general public or other commercial operations.

“**Controlled cross-connections**” means a connection between a potable water system and a non-potable water system, with an approved backflow-prevention device properly installed that will continuously afford the protection commensurate with the degree of hazard.

“**Cross-connection**” means any physical connection or arrangement of piping or fixtures between two otherwise separate piping systems, one of which contains potable water and the other non-potable water or industrial fluids of questionable safety, through which, or because of which, backflow or back-siphonage may occur into the potable water system. Other types of cross-connections include but are not limited to connectors such as swing connections, removable sections, four-way plug valves, spools, dummy sections of pipe, swivel or changeover devices, sliding multiport tube, and solid connections.

“**Customer**” see “User.”

“**DEQ**” means the Oregon Department of Environmental Quality.

“**Developed**” means any property which has been altered by grading, filling of the ground surface, or by construction of any improvement or impervious surface area, which could affect the hydraulic or hydrologic properties of the property.

“**Developer**” means any person, company or corporation who purchases or holds an interest in real property with the intent to increase the value thereof by the installation of utilities, construction of a

building or buildings, grading, ditching, improving or enhancing the ground or structures for the purpose of resale.

“Domestic stormwater” means surface or subsurface drainage of the type commonly introduced into a drainageway or storm sewer system by residential users.

“Double-check valve assembly” means an assembly of two independently operating approved check valves with tightly closing shutoff valves on each side of the check valves, plus properly located test cocks for the testing of each check valve. The entire assembly shall meet the design and performance specifications and approval of a recognized and City-approved testing agency for backflow-prevention devices. To be approved, these devices must be readily accessible for the in-line maintenance and testing.

“Dwelling unit” means any of the following:

- A. A single-family dwelling;
- B. An accessory dwelling unit;
- B. A habitable unit of multifamily dwelling(s), including an apartment;
- C. A condominium; or
- D. A manufactured home.

“Equivalent development unit (EDU)” means a unit of measurement of impervious surface. One EDU is equal to the estimated amount of impervious surface that would contribute the same amount of runoff to the City’s storm and surface water drainage system as the impervious surface on the average single-family residential use in the City of Molalla. One EDU is therefore equal to square feet of impervious surface area or any portion thereof.

“Erosion Prevention and Sediment Control (ESC)” means any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation, and ensure that sediment laden water does not leave a site.

“Erosion Prevention and Sediment Control Plan (ESC plan)” means plan approved by the Oregon Department of Environmental Quality through a 1200-C permit or other state agency permit for construction activities within the City of Molalla.

“Impervious surface” means a developed hard surface area which prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow than would occur under natural or undeveloped conditions. “Impervious surface” includes, but is not limited to, rooftops, concrete or asphalt paving, compacted gravel, walkways, patios, driveways, parking lots or storage areas, and oiled, macadam or other surfaces which similarly impede the natural infiltration or runoff of surface water.

“Industrial facility” means an establishment primarily engaged in manufacturing, processing or fabrication of goods.

“Industrial user” means any user engaged in the introduction of pollutants into a Publicly Owned Treatment Works (POTW) from any non-domestic source regulated under section 307(b), (c) or (d) of the Federal Water Pollution Control Act, Title 33 U.S.C. 1251.

“Industrial wastes” means the liquid wastes from any Industrial User. A user in the divisions listed in Industrial User may be excluded if it is determined that it will introduce primarily segregated domestic wastes or wastes from sanitary conveniences.

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

“Mains” means collection pipelines that are part of the City stormwater system.

“**Multi-user**” means a customer supplied with water service to more than one dwelling unit, commercial business or industrial facility, or combination thereof, from one water service connection.

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

“**Non-potable water**” means water that is not safe for human consumption, or which is of questionable potability.

“**NPDES**” means National Pollution Discharge Elimination System.

“**Operation**” means control of the unit processes and equipment which make up the treatment works. This includes financial and personnel management, records, laboratory control, process control, safety and emergency operation planning.

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

“**Person**” means any individual, firm, company, association, society, group or corporation.

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

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

“**Private sewer**” means a privately owned and maintained lateral sewer system normally six or eight inches in diameter, installed to serve multi-unit structures on single-ownership properties, which cannot legally be further divided, such as apartments, mobile home parks, schools and condominiums.

“**Property owner**” means the owner of the premises who is also the ultimate responsible party for all customer charges and fees. The property owner may also be the customer for any given premises.

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

“**Publicly Owned Treatment Works or POTW**” means a treatment plant or system, owned and operated by the City of Molalla, for the treatment of waters collected in a sewer collection system.

“**Replacement**” means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term “operation and maintenance” includes replacement.

“**Service connection**” means a water connection or sewer connection as the context indicates.

“**Service connection charge**” means the fee levied to pay for the cost of labor, materials and any inspection required during the construction of a utility service line from the water or sewer main to the property that is to be served, with the charges to be itemized on a standard City billing form.

“**Sewage**” means 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.

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

“**Sewer connection**” means a public sewer that has been constructed to the property line or right-of-way line from a public main for the sole purpose of providing a connection for the building sewer.

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

“Single-family residential” means any service location which is improved with a dwelling unit for occupancy by a single family or a similar group of persons.

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

“Storm drain” (sometimes termed “storm sewer”) means a sewer designed to carry stormwater and surface water and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

“Stormwater” means surface runoff and street wash waters, and drainage.

“Surface water” means all naturally occurring water whose surface is exposed to the atmosphere, including natural drainage ways, stream corridors, rivers, ponds, wetlands, and impoundments.

“Surface water management system” means all facilities, both natural and constructed, used by the City to regulate the quantity and quality of surface water, including drainage easements, culverts, storm drains, catch basins, stream corridors, rivers, ponds, wetlands and impoundments.

“Suspended solids” means 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.

“System development charge” means the fee or charge assessed to each commercial business, industry or dwelling unit for the right to connect to the City’s sewer or water system, and which is used for expansion of those systems.

“Temporary service” means service of limited duration.

“TSS (total suspended solids)” means the total suspended matter that floats on the surface, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering. (EPA Standard Methods 2540(D) shall be used for any tests for TSS.)

“Undeveloped” means any location which has not been altered by grading or filling of the ground surface, or by construction of any improvements or other impervious area, which could affect the hydraulic or hydrologic properties of the property.

“Untreated Stormwater” means any runoff from a site or property, whether by storm, washdown, or any other form, that either violates the basin approved Molalla-Pudding River Subbasin TMDL standards for Temperature, Bacteria, Pesticides, Nitrate, Metals, the conditions of any NPDES permit that applies, or that in the opinion of the Public Works Director constitutes a harmful discharge to the ecology or use of the receiving body within the City.

“Useful life” means the period during which a treatment works is planned and designed to be operated.

“User”. means the owner, agent, tenant or other authorized representative responsible for occupancy of the premises that is served by a City utility system. A person, corporation, association or agency which rents, or leases premises shall be considered an agent of the property owner.

“User service charge” means a charge levied on customers that may be a combination of a base fee, a usage fee and a fixed fee as set by resolution and/or ordinance.

“Utility” or **“Utility system”** means sewer, water and stormwater management services provided by the City of Molalla.

“Utility rate” is the rate established by City Council to cover the cost of providing utility system services.

“Utility service” means services provided for water, sewer, and stormwater.

“**Wastewater**” means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such incidental groundwater, surface water and stormwater as may be present.

“**Watercourse**” means a channel in which a flow of water occurs, either continuously or intermittently.

“**Water connection**” means the pipe, valves, fittings and meter by means of which the City conducts water from its main to and through a meter(s), but not including piping from the meter to the premises served.

“**Water main**” means water pipe and all necessary valves, fittings, hydrant connections and other appurtenances used for the distribution of water.

“**Water system**” means all municipally owned facilities of the City used to supply, process and distribute drinking-quality water to each customer service connection or temporary service.

13.13.020 Fees, rates and charges – Council authority.

All fees, rates and charges stated within the utility code may be changed at any time by resolution of the City Council.

13.13.030 Fees, rates and charges set by Resolution.

The City Council will establish the fees, rates and charges for the City’s utilities by resolution in an amount reasonable and necessary to fund the administration, debt, planning, design, construction, operation, maintenance and repair of the City’s utility systems. Rates shall be based on generally accepted rate-making principles, including the City’s true costs in upgrading the system to accommodate regulatory requirements and to provide adequate collection and treatment capacity for system users.

13.13.040 Application for service.

The following criteria must be met regarding application for utility service:

- A. Application for storm sewer service shall be made in writing by the owner of the premises to be served, or the owner’s agent duly authorized in writing on regular application forms furnished by the City. No service will be rendered until such application has been completed and the required payments made. All applications shall include signature of applicant, locations of premises for which service is requested, address to which all bills shall be sent, and such additional data as the Council from time to time may require.
- B. Applications for service shall be considered merely as a request for service, and they shall not bind the City or Council to provide service.
- C. Two or more parties who join together to make or who jointly make application for service are jointly and individually liable and will be sent a single billing.
- D. Any person 18 years of age or older who receives utility services at a premises is liable for the services provided.
- E. Contracts, other than applications, may be required prior to service where, in the opinion of the City, special circumstances exist.
- F. If a service is connected to the City utility system without application, the City will disconnect the premises. Before a new connection is made, the applicant must pay double the rate of the estimated charges for the unpaid services during the period of non-City-approved connection.
- G. In no case will utility service be allowed until the customer has complied with the terms of this section and all appropriate fees and charges have been paid.

H. In no case will utility service be allowed for properties that are not in compliance with any other section of the Municipal Code.

13.13.050 Deposit requirements.

Each storm sewer service customer shall pay a deposit to secure the payment of sewer/utility bills, unless exempted under the provisions of paragraph A.3. of this subsection. The amount of the deposit shall be established by the City Council by resolution. After payment of all amounts due for storm sewer service, the deposit shall be refunded, within 90 calendar days, to the customer upon termination of service or upon the customer's qualification for an exemption from the deposit requirement.

A. Storm sewer service customers shall be exempt from the requirement to maintain a deposit if:

1. The customer has maintained a storm sewer service account with the City for a continuous period of one year without any delinquencies in payment; or
2. The customer previously had a storm sewer service account with the City of Molalla for a period of at least one year, and there were no delinquencies in payment on that account.
3. Notwithstanding the provisions of this section, the City Manager may waive a customer's deposit requirement, extend the period during which a deposit is required, or reinstate a customer's deposit requirement for good cause.

13.13.060 Rates – Generally.

All users of the City's stormwater system shall pay to the City the rates for storm sewer service as provided by this chapter. A surface water utility user charge, which shall be set by the City Council by resolution, is established. The rate shall be in an amount reasonable and necessary to fund the administration, planning, design, construction, operation, maintenance and repair of the surface water management system.

The surface water utility user charge shall be based upon the amount of developed impervious surface used by a customer. Owners or occupants of undeveloped property shall not be charged. Each customer using a location for one single-family residential use shall be charged a uniform rate based upon one equivalent development unit (EDU). For multifamily residential uses, the charge shall be one EDU per each residential unit. The charge for all other uses shall be based upon the total amount of measured impervious surface used, divided by one EDU and rounded to the nearest whole number. The actual service charge shall be computed by multiplying the total amount of EDUs measured for each use by the rate established for each EDU.

13.13.070 Service connection charges – Generally.

A. A connection charge levied and imposed upon the owner of any property connecting to the storm sewer system of the City of Molalla, which shall be paid prior to such connection. The charge shall be established by the City Council by resolution.

B. The connection charge is levied upon a property based upon the existing or intended use of the property at the time of application for connection. If the property is improved, expanded, subdivided or otherwise modified so as to increase the connection charge due from that property, a connection charge shall be levied for the modified portion of the property based upon connection charges in effect at the time of the modification.

13.13.080 Rates – Outside-City.

No services will be provided outside of City limits.

13.13.090 Charges for restoration of service.

The City will charge a fee to a customer for restoration of utility service when service has been discontinued under the provisions of the utility code. This charge does not apply to newly installed service connections unless the applicant has outstanding charges on another account. The City may require a deposit, or require a larger deposit, before it will restore utility service based on prior payment history.

13.13.100 Computation and collection of charges.

The Finance Department will collect all user service charges. User service charges are computed and payable as provided in the utility code.

13.13.110 Revenues – Deposit and use.

The Finance Department will deposit in the appropriate fund all the gross revenues received from charges, rates and penalties collected for the use of the utility systems. The revenues deposited in the appropriate fund must be used exclusively for administration, planning, design, construction, improvements, operation, maintenance, debt payments and repair of the City’s storm sewer utility system.

13.13.120 Billing – Mailing address.

The City will mail bills for user service charges to the mailing address specified on the application for services, unless a different owner or customer has requested to the Finance Department that services be placed in their name and has agreed in writing to be responsible for the user service charges. When requested, the City will submit bills through its online billing program.

13.13.130 Billing – Payment responsibility.

- A. The property owner of record is ultimately responsible for payment of all charges prescribed in the utility code, regardless of any agreement the property owner may have with a third party and regardless of whether the customer’s bills were in a tenant’s name.
- B. A customer who is a tenant continues to be responsible for delinquent utility charges until paid regardless of relocation to premises different from the premises at which the tenant accrued delinquent charges. The City may refuse to provide service to such tenant at any new address, and/or may terminate utility service until the delinquent bill is paid. The City may also pursue any action available under the laws of the City or State of Oregon to recover payment.
- C. Multi-metered accounts must be in the property owner’s name.

13.13.140 Reserved.

13.13.150 Adjustment of accounts – No service provided.

If a customer pays for utility services not actually received as a result of the City’s error, the City will refund the amount paid for services not received. Refunded amount may not exceed a period of one year from the date the customer notified the City. To be designated as property not receiving service, the property must be undeveloped.

13.13.160 Reserved.

13.13.170 Liens for delinquent utility account.

Utility service charges become a lien against the premises served from and after the date of billing and entry on City records pertaining to the utility system. Such records are accessible for inspection by anyone interested to ascertain the amount of such charges against the property. Whenever a bill for utility service remains unpaid for 90 calendar days after billing, the lien thereby created may be foreclosed in a manner provided for in Oregon Revised Statutes, or in any other manner provided for by law or by City ordinance.

13.13.180 Exclusive control of system and services by City.

The surface water management system within the City limits, including all connections and contributions to the system, shall be under the exclusive control of the City. No person shall install any service, connect to any part of the system, discharge storm sewer or surface water into the system, or otherwise interfere with any part of the system without authorization of the City.

13.13.190 Service discontinuance at customer request.

A. A customer may have utility service discontinued by notifying the City at least five business days in advance of the desired date of discontinuance.

B. If the customer does not give notice, the customer must pay for utility service until the date the City has learned the customer has vacated the premises or a new customer has requested service.

13.13.200 Abandoned and non-revenue-producing services.

A. The City may remove a utility service connection to a premises that has been abandoned or not used for a period of one year or longer.

B. The City will only begin new utility service when the City receives a new customer application and payment for the new connection.

13.13.210 Disconnection from storm sewer system – Destroyed or removed structures.

A. When any structure connected to the storm sewer system is destroyed by an act of God, is removed, or is torn down, and/or no longer usable, it shall be required to disconnect from the storm sewer system and remove all impervious surfaces from site. The owner must advise the City of the destruction, stating the date of destruction or removal of the structure, and pay all user service charges to the date of destruction or removal, and thereafter no storm sewer user service charge will be made to the property until new improvements, if any, are placed on the property.

B. When the property is relieved from user service charges and then reconnected to the utility system, the City will determine whether the property had paid into the appropriate utility fund the amount required while the property was using City utilities. If the property had paid user service charges equal to the amount required under the utility rates that were in effect at the time of the disconnection from the utility system, the City will not levy any additional charges.

C. In addition, when a building with storm sewer service is destroyed or is relocated to a different property and thereafter replaced by a new building within three years after the date of destruction or removal, the City shall not levy a system development charge for the new building, unless the new building constitutes an increase in use under the system development charge schedule currently in effect. If the replacement building requires a greater system development charge than compared to the destroyed or relocated building previously on the same site, then a credit will be given on the replacement building's

system development charge equal to that of the previous building fee, and when the above provisions of this section and MMC 13.13.220 are met.

D. The current system development charge schedule shall be used for all comparisons and credit determinations under MMC 13.14. When a destroyed or relocated building is not replaced by a new building within three years of the date of destruction or an update to the storm sewer master plan is completed, then the owner of any replacement building must pay the full system development charge in effect at the time of application for storm sewer service.

13.13.220 Disconnection from storm sewer system – Reuse of old facilities.

A. Before the City will issue a moving or demolition permit, City personnel must verify disconnection and capping of the building storm sewer service at the right of way cleanout. If a cleanout does not exist, property owner must install a cleanout and cap at the right of way meeting City requirements.

B. In addition, when a building with storm sewer service is destroyed or relocated to a different property and is not replaced by a new building within three years from the date of destruction or removal, the Director of Public Works or director's designee may inspect the storm sewer service to determine whether it is in usable condition and is to be reused. If the storm sewer service is found unusable, the property owner is required to pay all costs for replacement of the storm sewer service connection.

13.13.230 Disconnection and reconnection procedures.

A. When any structure connected to the storm sewer system is destroyed by an act of God, is removed or is torn down, and/or no longer usable, it shall be required to disconnect from the storm sewer. The owner shall advise the City, stating the date of destruction or removal of the structure, and pay all user service charges to the date of destruction or removal, and thereafter no user service charge shall be made to the property until new improvements, if any, are placed on the property.

B. When the property is relieved from user charges and then reconnected to the storm sewer, the City shall determine whether the property had paid into the storm sewer fund the amount required while the property was using the storm sewer. If the property had paid user service charges equal to the amount required under storm sewer rates that were in effect at the time of disconnecting from the storm sewer, no additional charges will be levied.

C. In addition, when a building with storm sewer service is destroyed, or relocated to a different property and thereafter replaced by a new building within three years from the date of destruction or removal, the City shall not levy a system development charge for the new building unless the new building constitutes an increase in use under the system development charge schedule currently in effect. If the replacement building requires a greater system development charge when compared to the destroyed or relocated building previously on the same site, then a credit will be given on the replacement building system development charge equal to that of the previous building fee, and when the above provisions of this section are met.

D. The current system development charge schedule will be used for all comparisons and credit determinations under this section.

E. When a destroyed or relocated building is not replaced by a new building within three years of the date of destruction or an update to the storm sewer master plan is completed, then any replacement building shall pay the system development charges in effect at the time of application for storm sewer service.

13.13.240 Unsanitary deposit of waste.

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 the City, any human or animal excrement, garbage, or other unsanitary waste that can drain into or impact a storm sewer or drainageway. This includes ranging livestock, poultry, or pet-runs near or within storm facilities such as bioswales.

13.13.250 Treatment of storm sewer required.

It is unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any untreated stormwater or other polluted substances. All discharges shall comply with the Molalla Public Works Standards and its NPDES permit issued by the DEQ. Stormwater shall be protected from soap, wax or other pollution runoff from vehicle wash facilities.

13.13.260 Unlawful sewage disposal facilities.

Except as provided in this chapter, 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 that may have an effect on groundwater or surface water within the City limits.

13.13.270 Storm sewer connections required.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public storm sewer of the City, is required at the owner's expense to install storm facilities therein, and to connect such facilities directly with the proper public storm sewer in accordance with the provisions of this chapter, within 90 calendar days after date of official notice to do so, provided that the public storm sewer is within 100 feet of the property line.

13.13.280 Private Storm Sewer Disposal – When permitted.

A. Where a public storm sewer is not available the building storm sewer shall be connected to a private storm system that meets all federal and state rules, and does not impact groundwater, drainageways, or downstream properties.

B. The provisions of this section shall be in addition to and not in lieu of the requirements of other applicable laws, rules and regulations.

13.13.290 Private Storm Sewer Disposal – Operation and maintenance.

The owner of property with a private storm sewer disposal system shall always operate and maintain the system in a sanitary manner, at no expense to the City.

13.13.300 Upon availability of public storm sewer – Abandonment of private systems.

At such times as a public storm sewer becomes available to a property served by a private sewage disposal system, as provided in MMC 13.13.280, and upon notification to the property owner from the City, a direct connection shall be made to the public storm sewer in compliance with this chapter, and any drywell and similar private storm sewer disposal facilities shall be decommissioned, abandoned and filled with suitable material. All costs associated with decommissioning, abandonment and connection shall be the responsibility of the property owner.

13.13.310 Unauthorized connections and disturbances.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public storm sewer or appurtenance thereof without first obtaining a written permit from the Director of Public Works.

13.13.320 Costs of building storm sewer borne by owner.

All costs and expense incident to the installation and connection of the building storm sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building storm sewer.

13.13.330 Building storm sewer for each lot or parcel.

A. Every single-ownership property which cannot legally be further subdivided must have a separate storm sewer connection. These properties include, but are not limited to, multiple-family apartments, condominiums, mobile home parks and commercial or industrial establishments. Only one storm sewer lateral shall be provided to a residential property.

B. Multi-users with more than one unit located in common ownership on a single parcel of property shall also comply with the Oregon State Plumbing Specialty Code.

C. Any property which is located so as to require the storm sewer lateral to cross any other property or parcel shall provide evidence of a duly recorded perpetual easement for such lateral, appurtenant to the property to which such lateral will provide service, before any storm sewer connection is made.

D. Property other than residential shall utilize a common storm sewer main to provide services to individual building. Exceptions to this requirement must be in the interest of the public as determined and approved by the Director of Public Works.

13.13.340 Materials and connections – Private side.

The size, slope, alignment, materials of construction of a building storm sewer, and the methods to be used in connecting, excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the uniform building and plumbing code and all other applicable rules and regulations. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply, or the most current version thereof. All connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Director of Public Works before installation.

Storm sewer laterals on private property that are not part of the public system or within a public right-of-way or public storm sewer easement, the size, slope, alignment, materials of construction of a building storm sewer, and the methods to be used in connecting, excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the uniform building and plumbing code and all other applicable rules and regulations.

13.13.350 Elevation.

Whenever possible, the building storm sewer shall be brought to the building at an elevation to drain directly to the street through a weep hole in the curb. In all buildings in which any building drain is too low to permit gravity flow to the public storm sewer, storm sewer carried by a building drain shall be lifted by an approved means and discharged to the public storm sewer at the property owner's expense.

13.13.360 Connection of sources of surface runoff.

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

B. Where the City finds that any private service lateral piping is leaking or not legally connected, the property owner will be notified in writing by the City to make necessary repairs. The notification shall include the type of repairs to be made and the date, no less than 30 calendar days from the date of the notice, by which the repairs shall be completed.

C. The property owner shall notify the Director of Public Works when repairs have been made, but before any piping is buried, and the City shall inspect and retest the private service lateral for leaks. The lateral will be considered repaired when it passes the retest by the City.

13.13.370 Inspection – Connection to public storm sewer.

The applicant for the building storm sewer permit shall notify the Director of Public Works when the building storm sewer is ready for inspection and connection to the public storm sewer. The connection shall be made under the supervision of the Director of Public Works or representative.

13.13.380 Protection of excavations – Restoration of public property.

All excavations for building storm sewer installation shall be adequately guarded with barricades and lights 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.

13.13.390 Unlawful discharge of storm and other waters.

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

13.13.400 Regular Utility Service – Rules and regulations.

A. The City may furnish and install a utility service connection of such size and location as a customer requests; provided, that the request is reasonable and is in compliance with provisions of the Oregon State Plumbing Specialty Code, the City's design standards, and the utility code. The customer is responsible for all costs, including administration, for installation of utility service.

B. The City will install the storm sewer service from the main to right-of-way/property line of the premises, if the main is in the street, or to a point in a City right-of-way or easement unless storm access through a weep hole in the curb is a viable option.

C. The customer or property owner must furnish, install and keep in good and safe condition equipment that may be required for receiving, controlling, applying and utilizing any city utility, and the customer or property owner must do so at their own risk and expense.

D. The City is not responsible for loss or damage caused by the improper installation of the equipment used for receiving a City utility service by customer or customer's agent, or the negligence, want of proper care, or wrongful act in installing, maintaining, using, operating or interfering with the equipment by the customer or customer's agent.

E. The City is not responsible for damage to property caused by City's regular cleaning and maintenance of storm sewer main lines.

F. A customer making any material change in the size, character or extent of the equipment or operation utilizing storm sewer service, or whose change in operations results in a large increase in the use of water, shall immediately give the City written notice of the nature of the change and, if requested, amend the customer's application.

G. Any utility service connection, whether located on public or private property, is the property of the City, and the City reserves the right to repair, maintain and/or replace it.

13.13.410 Inspection and maintenance – Responsibility.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City, wherein such facilities are connected to the proper public storm sewer in accordance with this Chapter, are responsible for the maintenance and cost of maintaining the private service lateral and private site systems.

13.13.420 Inspection and maintenance – Testing, cleanouts, and right of entry.

A. The Director of Public Works and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties, upon prior written notice, to make tests of private service lateral piping to determine whether such piping is adequately watertight.

B. The property owner shall be responsible to supply cleanout at or adjacent to the house or buildings upon 10 business days' written notice by the City. Such cleanout shall be the same size as the service lateral piping and shall conform to the City of Molalla standard specifications for service lateral cleanout.

C. The City may elect at its cost to construct a service lateral cleanout on public right-of-way for use in testing and/or repairing of service lateral piping. The cleanout shall conform to City standards.

13.13.430 Inspection and maintenance – Grease traps and interceptors.

Where no polluted waters are allowed to discharge to the storm system, groundwater, or drainageway, no grease traps or interceptors shall be connected to the storm system or any other facility carrying stormwater.

13.13.440 Improper connection and notice to repair.

A. Where the City finds that any private service lateral piping is leaking or not legally connected, the property owner will be notified in writing by the City to make necessary repairs. The notification shall include the type of repairs to be made and the date, no less than 30 calendar days from the date of the notice, by which the repairs shall be completed.

B. The property owner may elect to have the City repair or replace private service laterals by notifying the Director of Public Works in writing. The property owner may then contract with the City for such repairs.

C. The City shall contract out the work and charge for any in-house labor and materials so furnished.

D. Upon completion of repairs, the City shall provide a written accounting to the property owner prepared by the Director of Public Works.

E. The property owner shall pay the City for the repairs by paying no less than one-twelfth (1/12) the cost of the improvements as a surcharge on the storm sewer bill until the outstanding amount has been paid in full. The City shall charge no interest on the unpaid balance.

F. The City does not assume any obligation for reasonably necessary damage to landscaping, vegetation and walkways caused by repair work, and the property owner shall be solely responsible for repairing or replacing such damages.

13.13.450 Nonconformance – Notice.

A. Any property owner who fails to comply with the provisions of MMC 13.13.410 through 13.13.440 shall be deemed to possess a private service lateral not in conformance.

B. The Director of Public Works shall notify by mail each property owner he or she determines is in violation at the address of such owner as listed on the latest tax rolls of the Tax Assessor for Clackamas County, Oregon. The notice shall set forth the basis for such alleged violations along with an explanation of the consequences of having a service lateral not in conformance. The notice shall include notification of the right to a hearing as described in this section.

C. Within 10 business days of the mailing of the notice described in subsection B of this section, the property owner may request a hearing before the City Manager. At such hearing the City Manager shall determine whether or not the property is in violation as alleged. Unless such request for a hearing is filed within the time provided by this Section, the property owner shall be deemed to possess a service lateral not in conformance. If the property owner is found to be in violation at the hearing by the City Manager, then the property owner's service lateral shall be deemed not in conformance. The property owner may appeal the decision of the City Manager within 10 business days of such decision by filing a written notice of appeal with the City Manager. Appeals shall be heard by the City Council.

13.13.460 Nonconformance – Charges.

Any property owner who maintains a private service lateral not in conformance with the maintenance requirements of this article shall be assessed a monthly storm sewer charge triple the normal rate until the private service lateral is brought into conformance with the requirements of this Chapter.

13.13.470 City may assume cost of repairs.

At such times that the City Council shall determine by Resolution that it is in the public interest to repair a service lateral or group of service laterals without delay the City may repair such lateral at the City's expense without prior testing of such lateral and with the consent of the property owner without notice as provided in MMC 13.13.410 through 13.13.440.

13.13.480 Damage to sewage works prohibited.

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

13.13.490 Entry on property.

The Director of Public Works and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties, upon prior written notice, for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The Director of Public Works or representative shall also have the authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the storm sewers or waterways or facilities for wastes treatment.

13.13.500 Observance of safety rules—Liability of City.

While performing the necessary work on private properties referred to in MMC 13.13.490, the Director of Public Works or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

13.13.510 Entry and work on easements.

The Director of Public Works and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

13.13.520 Certain discharges subject to approval.

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 Director of Public Works that such wastes can harm the storm sewer system or public drainageways. The substances prohibited are including but not limited to the following:

- A. Any untreated stormwater as defined in MMC 13.13.010.
- B. Stormwater discharges a temperature higher than 150°F (65°C);
- C. Stormwater discharges containing fats, gas, grease, or oils, whether emulsified or not;
- D. Stormwater discharges containing acid, plating solutions whether neutralized or not;
- E. Stormwater discharges containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or chlorine;
- F. Stormwater discharges containing phenols or other taste or odor producing substances;
- G. Stormwater discharges containing any radioactive wastes or isotopes;
- H. Stormwater discharges containing having a pH in excess of 8.0 or less than 6.0;
- I. Stormwater discharges containing unusual concentrations of inert suspended solids or discoloration;
- J. Stormwater discharges containing paint, stains, or other coatings.
- K. Stormwater discharges containing substances which are not amenable to treatment or reduction by the water quality facilities.
- L. Stormwater discharges or runoff containing fluids or materials from a defective or improperly maintained septic system.

13.13.530 Decision of Director of Public Works regarding harmful wastes.

If any waters or wastes are discharged, or are proposed to be discharged to the public storm sewers, which waters contain the substances, or possess the characteristics enumerated in MMC 13.13.520 and which, in the judgment of the Director of Public Works, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, nuisance, the Director of Public Works shall require

pretreatment prior to discharge to water quality or detention facilities to an acceptable condition for discharge to the public storm sewers. Stormwater pretreatment shall be permitted and monitored through the DEQ.

13.13.540 Notification of Spills.

A. As soon as any Person in charge of a facility or responsible for emergency response for a facility becomes aware of any suspected, confirmed, or unconfirmed release of material, Pollutants, or waste creating a risk of Discharge to the Public Stormwater System, such Persons shall:

1. Begin containment procedures;
2. Notify proper emergency personnel in case of an emergency;
3. Notify appropriate city and/or State officials regarding the nature of the spill; and
4. Follow-up with the city regarding compliance and modified practices to minimize future spills, as appropriate.

B. The notification requirements of this section are in addition to any other notification requirements set forth in local State, or Federal regulations and laws. The notification requirements do not relieve the Person of necessary remediation.

13.13.550 Illicit discharges and connections.

A. The Public Works Director may require by written notice that any user who makes an illicit connection to the public stormwater system complies with the requirements of this Chapter to eliminate the illicit connection or secure approval for the connection by a specified date.

B. If, subsequent to eliminating a connection found to be in violation of this Chapter, the responsible party can demonstrate that an illicit discharge will no longer occur, that user may request approval to reconnect. The reconnection or reinstallation of the connection shall be at the user's expense.

C. Whenever the City finds that a discharge of pollutants is taking place or has taken place which will result in or has resulted in pollution of stormwater or the stormwater system, the Public Works Director may require by written notice to the responsible party that the pollution is remediated and the affected property restored, to the requirements of this Chapter.

D. Whenever the Public Works Director determines that any person engaged in any activity which may cause or contribute to stormwater pollution or illicit discharges to the stormwater system, the Public Works Director may, by written notice, order that the responsible party undertake such monitoring activities and/or analyses and furnish such reports as the Public Works Director may deem necessary to demonstrate compliance with this Chapter. The written notice shall be served either by personal delivery or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required including but not limited to, that which may be undertaken by a third party independent monitor, sampler and/or tester. The recipient of such order shall undertake and provide the monitoring, analyses and reports within the time frames set forth in the order. If the City cannot locate the responsible party and the responsible party is a person other than the owner of the property, the City will notify the owner of the property in writing via personal delivery or certified mail requiring the owner to monitor the property and furnish such reports as the Public Works Director may deem necessary to demonstrate compliance with this Chapter.

13.13.560 Reporting of harmful discharges.

Businesses are required to accurately report any chemical discharges to the storm sewer system to the Director of Public Works and the DEQ.

13.13.570 Construction – Public works design standards.

Storm sewers shall be designed in compliance MMC 12.12 for all public improvements and the Oregon Plumbing Specialty Code for all private plumbing services.

13.13.580 Construction – Construction specifications.

Storm sewers shall be constructed in compliance MMC 12.12 for all public improvements. All building storm sewers shall be constructed in compliance with the Oregon Plumbing Specialty Code, except where higher standards apply within the utility code.

13.13.590 Construction – Permit required for storm sewer work.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public storm sewer or appurtenance thereof without first obtaining a written permit from the Director of Public Works.

13.13.600 Construction – Erosion prevention and sediment control.

A. Purpose. These regulations contained herein, together with the current version of the Molalla Public Works Standards will be referred to herein as “these Standards.” The purpose of these Standards is to establish uniform requirements for land development and construction-related activities in order to control the occurrence of erosion and to prevent the creation, migration and/or transport of erosion at the source during construction and land development.

B. Standards. These Standards shall be administered and enforced by the Public Works Director or designee. The Public Works Director shall have the authority to develop and implement procedures, forms, policies, and interpretations for administering the provisions of these Standards.

C. ESC Permit Required. An ESC applicant must obtain an ESC permit from the DEQ and a City of Molalla Public Works permit before commencing any ground disturbing activity affecting 500 square feet or greater, cumulatively, throughout the duration of development, redevelopment, or other construction related activity of a parcel or parcels. A copy of the approved DEQ 1200-C permit shall be submitted to the Public Works Director before issuance of any Public Works permit and before any clearing or grading shall be allowed to proceed.

D. ESC Plan Required. The ESC applicant shall submit a copy of the approved DEQ ESC plan with and incorporate into all construction plans.

E. ESC Implementation. An approved ESC permit shall be implemented and maintained in accordance with DEQ requirements and as follows:

1. It shall be the duty of the ESC applicant to inspect the property in conformance with the permit issued to ensure ESC measures are effective.

2. The ESC Applicant is responsible to ensure that no visible and measurable erosion and sediment leaves the permitted site.

3. The ESC Applicant shall keep a record of inspections with a brief explanation as to any signs of erosion or sediment release and measures taken to prevent future releases as well as any measures taken to clean up the sediment that has left the site. Records must be made available to the City and DEQ upon request and must be submitted to the City upon final completion of work if requested by the City.

4. During periods of wet weather, disturbed areas of the site and/or stockpiled soil shall be covered by the ESC applicant by tarps or straws at the end of each day's operations; all disturbed, unworked areas of the site shall be protected from erosion.

5. The ESC applicant shall remove ESC measures, establish permanent groundcover on all exposed soils; clean and remove trash, construction waste and sediment deposits before receiving a final ESC inspection approval.

F. Ineffective Measures and ESC Plan Amendment. If the facilities and techniques in the approved ESC Plan are not effective or sufficient to meet the purposes of this Chapter, based on an on-site inspection, the Public Works Director or designee may require the ESC applicant to revise the ESC Plan. Such requirement shall be in writing and shall explain the problem. The written requirement shall be presented to the ESC applicant and any other related parties.

1. The revised ESC Plan shall be submitted by the ESC applicant not later than three (3) business days of when written notification by the Public Works Director is received. Receipt of such notice shall be deemed complete three (3) days after simultaneous regular mail and certified mail is deposited in the mail or completed the same day as personal delivery.

2. The ESC applicant shall implement fully the revised ESC Plan not later than three (3) business days after mailing the revised ESC Plan to the City, or within such other time frame as the Public Works Director may specify.

3. In cases where significant erosion is occurring, the Public Works Director or designee may require the ESC Applicant to immediately install interim control measures before submittal of a revised ESC Plan.

4. If there is a confirmed or imminent threat of significant off-site erosion, the Public Works Director or designee shall issue a stop work order, upon issuance of which all work on the development site shall halt. The stop work order shall not be lifted until mitigation measures are implemented that comply with the City of Molalla and DEQ's performance standards for ESC and are approved by the Public Works Director or designee.

G. Duty of ESC responsibilities are with applicant. It is the duty of the ESC applicant to maintain ESC measures and to comply with the requirements of the DEQ 1200-C permit. The City of Molalla is not responsible for ensuring ESC applicants compliance with DEQ's permit.

13.13.610 Construction – Cost of installation and connection.

All costs and expenses incident to the installation and connection of the building storm sewer shall be borne by the owner. It shall be the responsibility of the owner, lessee or occupant of a building to maintain the building storm sewer or private collection system in a free-flowing and watertight condition, from the structure served to the public storm sewer. All existing private storm sewers shall be maintained in a safe and sanitary condition.

13.13.620 Construction – Cleanout specifications.

At the connection with the public storm sewer and the building storm sewer, there shall be a cleanout of the same material as the public storm sewer connection pipe furnished by the owner. The cleanout shall extend vertically to within six inches of the finished ground surface and shall be sealed with an approved cap or plug. This riser shall be used for inserting a test plug for water or air testing the building storm sewer, and as an auxiliary cleanout. Backfilling around the riser shall be done in such a manner as not to damage the pipe.

13.13.630 Construction – Separate storm sewers for each building.

Every building storm sewer shall be separate and independent of any other building, whether connecting to a public or private storm sewer.

13.13.640 Construction – Private storm sewer restrictions.

Private storm sewer lines shall only be allowed where the building or buildings affected are located on a single parcel of land. Private storm sewer connections to public storm sewer shall be subject to the same design and construction standards as public storm sewers of the city and shall be subject to complete review and approval by the Director of Public Works.

13.13.650 Construction – Leaks and extraneous discharges – Monitoring procedures.

A. New and existing private storm sewers, building drains and building storm sewers will be monitored for leaks or discharges of extraneous water. This monitoring may take the form of, but is not limited to:

1. Direct visual observation;
2. Indirect measurement;
3. Tele-inspection; or
4. Air or water pressure tests, smoke tests, or exfiltration tests.

B. If, in the opinion of the Director of Public Works, such monitoring shows a storm sewer to be defective, no further proof is needed for the Director to require the storm sewer to be repaired to current standards.

13.13.660 Construction – Capping and inspection prior to abandonment.

A. Before a moving or demolition permit is allowed to be issued, evidence must be presented showing the storm sewer has been properly capped and inspected. No exceptions will be allowed. All building storm sewer shall be capped at the public main in an approved manner by the applicant or the applicant's contractor and inspected by City forces prior to closure of the excavation.

B. Exception. If adequate proof can be given showing a storm sewer service is in usable condition and is to be reused, the inspector may allow the service to be capped at the property line. It is the applicant's responsibility to ensure that no other structure is connected to the storm sewer service being abandoned. If the line abandoned is serving more than one structure, a service connection for the structure(s) still using the service must be provided. If the Director of Public Works determines that capping at the main will cause undue hazard to the public, or if a street has been recently resurfaced, a variance to this section may be granted to require that the storm sewer be capped as close to the main as practical.

13.13.670 Construction – Public Works Inspection fees.

A. The construction inspection services and fee is mandatory and not subject to request by the property owner. All construction costs must be verified from actual invoices and receipts when the City is not responsible for contract administration.

B. The City Council will establish the fees, rates and charges for the City's inspection services by Resolution.

13.13.680 Construction – Bonding and insurance.

Bonding and insurance for utility construction will be as provided in the Molalla Municipal Code or the Public Works design standards adopted MMC 12.12.

13.13.690 Construction – Storm sewer main extensions.

Whenever a public improvement is to construct or extend a storm sewer main, the following shall apply:

A. Extension of all lines will be to the farthest edge of the property requesting service, unless otherwise authorized by the Director of Public Works.

B. Minimum pipe sizes shall be in compliance with the Public Works Standards unless otherwise approved by the Director of Public Works.

C. When required by the City, the City will share in the cost of storm sewer lines larger than the minimum size provided in MMC 13.13.690.B by paying the difference in cost between a minimum size pipe and the larger size, except:

1. When a new development requires a larger line to provide adequate service, as determined by the Director of Public Works;
2. Only pipe and fitting materials will be paid by the city unless the line size is greater than 10 inches in diameter.

D. The property owner requesting the extension must pay the cost for extending new storm sewer lines. If a property owner requests service from a portion of the storm sewer line provided by the original developer, then the city shall collect a proportionate share of the storm sewer line cost, and reimburse the original developer or assignee that amount, less administrative costs. This reimbursement policy shall continue for 10 years from the date of line construction, and then end.

13.13.700 Violation—Notice.

Unless otherwise stated in section of this Chapter, any person found to be violating any provision of this chapter shall be served by the City with written notice stating the nature of the violation and providing a 14-day time limit for the satisfactory correction thereof.

13.13.710 Violation—Penalty.

Any person who continues any violation beyond the time limit provided for in MMC 13.13.700 shall be guilty of a violation and, on conviction thereof, shall be fined in the amount set by Council resolution or subject to fines established per code MMC 1.04.010, general provisions for each violation. Each day in which any such violation continues shall be deemed a separate offense. Failure to comply with a written directive or timeline of the City Manager made under the authority of this chapter is a punishable offense and may result in a temporary loss of City water and storm sewer services.

13.13.720 Violators liable to City.

Any person violating any of the provisions of this chapter shall become liable to the City for any expense, loss, or damage occasioned by the City of Molalla by reason of such violation.