

## **Title 13 PUBLIC SERVICES**

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## **Chapter 13.04 STANDARD SPECIFICATIONS FOR PUBLIC WORKS**

### **Sections:**

[13.04.010 Document adopted.](#)

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### **13.04.010 Document adopted.**

The city adopts the February, 2010 Public Infrastructure Design Standards Manual — Guidelines for Development to be in accordance with Ordinance No. 1228 and in conjunction with the Standard Specifications for Public Works Construction manual, published by the American Public Works Association, Oregon Chapter, with revisions. New factual information may be added to the Public Infrastructure Design Standards Manual as updates becomes available from city's engineer, without further action by the city council.

(Ord. 1250, 1996: Ord. 1228 § 1, 1994)

(Ord. No. 1334, § 1, 2-17-2010)

### **13.04.020 Definitions.**

For the purpose of administration of the provisions of this chapter, the term, "owner," in the manual, shall refer to the city of Toledo and the term "contractor" shall refer to the person, persons or firm

responsible for the construction, reconstruction, repair and maintenance of the improvements. The term "director of public works" or "engineer" shall refer to the city of Toledo director of public works or appointed designee.

(Ord. 1228 § 2, 1994)

#### **13.04.030 Exceptions.**

Exceptions and additions to the plans and specifications contained in the manual may be authorized or required by the director of public works. With regard to a particular project or class of project, any specifications or material otherwise permitted may be changed if, in the opinion of the director of public works, the use of the specification or material would not be suitable or would not serve the best interests of safety, engineering and construction practice.

(Ord. 1228 § 3, 1994)

#### **13.04.040 Charges and fees.**

The cost and fees for review and permits of public facility construction shall be established and may be revised by resolution of the council. The resolution shall set the amount of the charge and the type of permit to which the charge applies.

(Ord. 1228 § 4, 1994)

### **Chapter 13.08 PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENT PROCEDURES**

#### **Sections:**

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**13.08.010 Initiation of proceedings and report from the city manager.**

Whenever the council shall deem it necessary, upon its own motion or upon the petition of the owners of one-half of the property to benefit specially from the improvement, to make any street, sewer, sidewalk, drain or other public improvement to be paid for in whole or in part by special assessment according to benefits, then the council shall, by motion, direct an appropriate city employee or agent to make a survey and written report for such project and file the same with the city recorder. Whenever the council acts upon the petition of owners of one-half of the property to benefit specially from the improvement, the council may require that the petitioners pay all or part of the costs of preparing the survey and written report if the project is abandoned in accordance with [Section 13.08.020](#) or [13.08.030](#) of this chapter. A payment may be secured by bond, cash deposit or other means as the council deems appropriate. Unless the council shall direct otherwise, such report shall contain the following matters:

- A. A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof;
- B. Plans, specifications and estimates of the work to be done; provided, however, that where the proposed project is to be carried out in cooperation with any other governmental agency, the report may adopt the plans, specifications and estimates of such agency;
- C. An estimate of the probable cost of the improvement, including any legal, administrative and engineering costs attributable thereto;
- D. An estimate of the unit cost of the improvement to the specially benefitted properties;
- E. A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefitted;
- F. The description and assessed value of each lot, parcel of land, or portion thereof to be specially benefitted by the improvement, with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof;
- G. A statement of outstanding assessments against property to be assessed.

(Ord. 1068, 1979; Ord. 991 § 1, 1976)

**13.08.020 Council's action on report.**

After the report shall have been filed with the city recorder, the council may thereafter by motion approve the report, modify the report, and approve it as modified; require additional or different information for such improvement; or it may abandon the improvement.

(Ord. 991 § 2, 1976)

**13.08.030 Resolution and notice of hearing.**

After the council shall have approved the report as submitted or modified, the council shall, by resolution, declare its intention to make such improvement, provide the manner and method of carrying out the improvement, and shall direct the recorder to give notice of such improvement by two publications one week apart in a newspaper of general circulation within the city of Toledo and by mailing copies of such notice by registered or certified mail to the owners to be assessed for the costs of such improvement, which said notice shall contain the following matters:

- A. That a written report on the improvement is on file in the office of the recorder and is subject to public examination;

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- B. That the council will hold a public hearing on the proposed improvement on a specified date, which shall not be earlier than ten (10) days following the first publication of notice, at which objections and remonstrances to such improvement will be heard by the council, and that if, prior to such hearing, there shall be presented to the recorder valid, written remonstrances on forms provided by the city of two-thirds of the owners of the property to be specially affected and assessed for a proposed public improvement, then the improvement will be abandoned for at least six months. For the purpose of this section "owner" shall mean the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale contract or according to a verified writing by the record holder of legal title to the land filed with the city recorder, the purchaser shall be deemed the "owner."
- C. A description of the property to be specially benefitted by the improvement, the owners of such property, and the estimate of the unit cost of the improvement to the property to be specially benefitted, and the total cost of the improvement to be paid for by special assessments to benefitted properties.

(Ord. 991 § 3, 1976)

### **13.08.040 Manner of doing work.**

The council may provide in the improvement resolution that the construction work may be done in whole or in part by the city of Toledo, by a contract, or by any other governmental agency, or by any combination thereof.

(Ord. 991 § 4, 1976)

### **13.08.050 Hearing.**

At the time of the public hearing on the proposed improvement, if the written remonstrances shall represent less than the amount of property required to defeat the proposed improvement, then, on the basis of the hearing of written remonstrances and oral objections, if any, the council may, by motion, at the time of the hearing or within sixty (60) days thereafter, order the improvement to be carried out in accordance with the resolution; or the council may, on its own motion, abandon the improvement.

(Ord. 991 § 5, 1976)

### **13.08.060 Call for bids.**

- A. The council may, in its discretion, direct the city recorder to advertise for bids for construction of all, or any part of, the improvement project on the basis of the council-approved report and before the passage of the resolution, or after the passage of the resolution and before the public hearing on the proposed improvement, or at any time after the public hearing; provided, however, that no contract shall be let until after the public hearing has been held to hear remonstrance and oral objections to the proposed improvement. In the event that any part of the work of the improvement is to be done under contract bids, then the council shall determine the time and manner of advertisement for bids, and the contracts may be let to the responsible bidder whose bid is in the best interests of the city as determined in the sole discretion of the council; provided, that the council shall have the right to reject any or all bids when they are deemed unreasonable or unsatisfactory in the council's discretion. The city shall provide for the bonding of all contractors for the faithful performance of any contract let under its authority, and the provisions thereof in the case of default shall be enforced by action in the name of the city of Toledo.
- B. If the council finds, upon opening bids for the work of such improvement, that the bid in the best interest of the city is substantially in excess of the estimate, it may, in its discretion, provide for holding a special hearing of objections to the proceeding with the improvement on the basis of such

bid; and it may direct the city recorder to publish one notice thereof in a newspaper of general circulation in the city of Toledo.

(Ord. 991 § 6, 1976)

### **13.08.070 Assessment ordinance.**

If the council determines that the local improvement shall be made, when the estimated cost thereof is ascertained on the basis of the contract award or city departmental cost, or after the work is done and the cost thereof has been actually determined, the council shall determine whether the property benefitted shall bear all or a portion of the cost. The recorder or other person designated by the council shall prepare the proposed assessment to the respective lots within the assessment district and file it in the appropriate city office. Notice of such proposed assessment shall be mailed or personally delivered to the owner of each lot proposed to be assessed, which notice shall state the amounts of assessment proposed on that property and shall fix a date by which time objections shall be filed with the recorder. Any such objection shall state the grounds thereof. The council shall consider such objections and may adopt, correct, modify or revise the proposed assessments and shall determine the amount of assessment to be charged against each lot within the district, according to the special and peculiar benefits accruing thereto from the improvement, and shall by ordinance spread the assessments.

(Ord. 991 § 7, 1976)

### **13.08.080 Method of assessment and alternative methods of financing.**

The council, in adopting a method of assessment of the costs of the improvement, may:

- A. Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived;
- B. Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefitted;
- C. Authorize payment by the city of all, or any part of, the cost of any such improvement when, in the opinion of the council, the topographical or physical conditions, or unusual or excessive public travel, or other character of the work involved warrants only a partial payment or no payment by the benefitted property of the costs of the improvement.

Nothing contained in this chapter shall preclude the council from using any other available means of financing improvement, including federal or state grants-in-aid, sewer charges or fees, revenue bonds, general obligation bonds, or any other legal means of finance. In the event that such other means of financing improvements are used, the council may, in its discretion, levy special assessments according to the benefits derived to cover any remaining part of the costs of that improvement.

(Ord. 991 § 8, 1976)

### **13.08.090 Remedies.**

Subject to the curative provisions of [Section 13.08.160](#) and the rights of the city to re-assess as provided in [Section 13.08.170](#) of this chapter, proceedings for writs of review and suits in equity may be filed no later than sixty (60) days after the passage by the council of the ordinance spreading the assessment; providing, that the property owner shall have filed a written objection to the proposed assessment as provided in [Section 13.08.070](#). A property owner who has filed a written objection with the city recorder, as required by [Section 13.08.070](#), shall have the right to apply for a writ of review based on the grounds that the council, in the exercise of judicial functions, has exercised such functions erroneously or arbitrarily, or has exceeded its jurisdiction, to the injury of some substantial right of such owner, if the facts supporting such ground have been specifically set forth in the written objection as required in [Section 13.08.070](#). A property owner who has filed a written objection with the city recorder,

as required by [Section 13.08.070](#), may commence a suit for equitable relief based on a total lack of jurisdiction on the part of the city; and if notice of the improvement shall not have been sent to the owner, and if the owner did not have knowledge of the proposed improvement prior to the hearing, then the owner may file written objections alleging lack of jurisdiction with the city recorder within thirty (30) days after receiving notice or knowledge of the improvement. No provision of this section shall be construed so as to lengthen any period of redemption, or so as to affect the running of any statute of limitation or equitable defense, including laches. Any proceeding on a writ of review or suit in equity shall be abated if proceedings are commenced and diligently pursued by the city council to remedy or cure the alleged errors or defects.

(Ord. 991 § 9, 1976)

### **13.08.100 Notice of assessment.**

Within ten (10) days after the ordinance levying assessment has been passed, the city recorder shall send by registered or certified mail a notice of assessment to the owner of the assessed property and shall publish notice of such assessment twice in a newspaper of general circulation in the city of Toledo, the first publication of which shall be made not later than ten (10) days after the date of the assessment ordinance. The notice of assessment shall recite the date of the assessment ordinance and shall state that, upon the failure of the owner of the property assessed to make application to pay the assessment in installments within ten (10) days from the date of the first publication of notice, or upon the failure of the owner to pay the assessment in full within thirty (30) days from the date of the assessment ordinance, then interest will commence to run on the assessment and that the property assessed will be subject to foreclosure; and said notice shall further set forth a description of the property assessed, the name of the owner of the property, and the amount of each assessment.

(Ord. 991 § 10, 1976)

### **13.08.110 Lien records and foreclosure proceedings.**

After passage of the assessment ordinance by the council, the city recorder shall enter in the docket of city liens a statement of the amounts assessed upon each particular lot, parcel of land or portion thereof, together with a description of the improvement, the name of the owners, and the date of the assessment ordinance. Upon such entry in the lien docket, the amount so entered shall become a lien and charge upon the respective lots, parcels of land or portions thereof, which have been assessed for such improvement. All assessment liens of the city of Toledo shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the state of Oregon permit. Interest shall be charged at a rate to be specified by the council in the assessment ordinance, which rate shall apply until paid on all amounts not paid within thirty (30) days from the date of the assessment ordinance; and after expiration of sixty (60) days from the date of such assessment ordinance, the city may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the state of Oregon; provided, however, that the city may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the state of Oregon to redeem such property.

(Ord. 1134, 1981: Ord. 1076, 1979: Ord. 991 § 11, 1976)

### **13.08.120 Errors in assessment calculations.**

Claimed errors in the calculation of assessments shall be called to the attention of the city recorder, who shall determine whether there has been an error in fact. If the recorder shall find that there has been an error in fact, he shall recommend to the council an amendment to the assessment ordinance to correct such error; and upon enactment of such amendment, the city recorder shall make the necessary correction in the docket of city liens and send a correct notice of assessment by registered or certified mail.

(Ord. 991 § 12, 1976)

**13.08.130 Deficit assessment.**

In the event that an assessment shall be made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the council may, by motion, declare such deficit and prepare a proposed deficit assessment. The council shall set a time for a hearing of objections to such deficit assessment and shall direct the city recorder to publish one notice thereof in a newspaper of general circulation in the city of Toledo. After such hearing, the council shall make a just and equitable deficit assessment by ordinance, which shall be entered in the docket of city lines as provided by this chapter; and notices of the deficit assessment shall be published and mailed, and the collection of the assessment shall be made in accordance with Sections [13.08.100](#) and [13.08.110](#) of this chapter.

(Ord. 991 § 13, 1976)

**13.08.140 Rebates.**

If, upon the completion of the improvement project, it is found that the assessment previously levied upon any property is more than sufficient to pay the costs of such improvements, then the council must ascertain and declare the same by ordinances; and when so declared, the excess amounts must be entered on the lien docket as a credit upon the appropriate assessment. In the event that any assessment has been paid, the person who paid the same, or his legal representative, shall be entitled to the repayment of such rebate credit, or the portion thereof which exceeds the amount unpaid on the original assessment.

(Ord. 991 § 14, 1976)

**13.08.150 Abandonment of proceedings.**

The council shall have full power and authority to abandon and rescind proceedings for improvements made under this chapter at any time prior to the final completion of such improvements; and if liens have been assessed upon any property under such procedure, they shall be canceled, and any payments made on such assessments shall be refunded to the person paying the same, his assigns or legal representatives.

(Ord. 991 § 15, 1976)

**13.08.160 Curative provisions.**

No improvement assessment shall be rendered invalid by reason of a failure of the report to contain all of the information required by [Section 13.08.010](#) of this chapter; or by reason of a failure to have all of the information required to be in the improvement resolution, the assessment ordinance, the lien docket, or notices required to be published and mailed; not by the failure to list the name of, or mail notice to, the owner of any property as required by this chapter; or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining, and the council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

(Ord. 991 § 16, 1976)

**13.08.170 Reassessment.**

Whenever any assessment, deficit or reassessment for any improvement which has been made by the city has been, or shall be, set aside, annulled, declared or rendered void, or its enforcement restrained by any court of this state, or any federal court having jurisdiction thereof, or when the council shall be in doubt as to the validity of such assessment, deficit assessment, or reassessment, or any part thereof, then the council may make a reassessment in the manner provided by the laws of the state of Oregon.

(Ord. 991 § 17, 1976)

**Chapter 13.12 WATER SERVICE SYSTEM**

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### **13.12.010 Water department created.**

There is by this chapter created in the city of Toledo, Oregon, a department acting under the authority of the city council to be known as the city of Toledo water department. The superintendent of the department shall have charge of the maintenance and operation of the water source, treatment plant, pumping equipment, and all lines and all appurtenances of the water system. The superintendent shall perform his duties under the supervision and direction of the city manager.

(Ord. 1093 § 1, 1980)

### **13.12.020 Collection of charges.**

The city shall collect the charges, deposits and fees established by the council for each user of the water system facilities, and all charges shall be shown on a regular monthly bill. Revenues when collected by the city shall be paid over to the city treasurer and into a fund designated as "sale of water."

(Ord. 1093 § 2, 1980)

**13.12.030 Definitions.**

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

"Air gap" means the vertical physical separation between the free flowing discharge end of the potable supply line and the overflow rim of the receiving vessel. This separation must be at least twice the inside diameter of the supply line, but never less than one inch.

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

"Atmospheric vacuum breaker (AVB)" means a device, which contains a float check (poppet), a check seat, and an air inlet vent. This device is not approved by the city of Toledo for use on irrigation systems.

"Backflow device installer" means a person who is a plumber, an irrigation installer, public works employee, or a pipe fitter all licensed by the state of Oregon. All installers are required to obtain a permit from the city of Toledo in order to perform the work."

"Certified backflow assembly tester" means a person who is certified by the Oregon State Health Division, holds a contractors license with the construction contractor's board, and is approved by the city of Toledo to test backflow prevention assemblies.

"Certified cross connection control specialist/inspector" means a person who is certified by the Oregon State Health Division to administer a cross connection control program and to conduct a cross connection survey.

"Cross connection" means a cross connection is any actual or potential physical connection between a potable water line and any pipe or vessel containing a non-potable fluid so that it is possible to introduce the new non-potable fluid into the potable system by "backflow".

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

"City manager" means the city manager or his authorized representative.

"Customer" means a person, corporation, association or agency receiving water service from the city water utility.

"Date of presentation" means the date upon which a bill or notice is mailed or delivered personally to the customer.

"Department" means the public works department of the city of Toledo.

"Discontinued water service" means the termination of the arrangement between the customer and the city water utility for the supply of water and normally shutting off the city valve at the meter.

"Domestic customer" means a customer who receives water for use in a residence.

"Double check detector assembly (DCDA)" means an approved assembly consisting of two approved double check valve assemblies, set in a parallel manner, equipped with a meter on the bypass line to detect small amounts of water leakage or use.

"Double check valve assembly (DCVA)" means an approved assembly consisting of two independently operating check valves, loaded to the closed position by springs or weights, and installed as a unit with and between two resilient seated shutoff valves and having suitable connections for testing.

"Fire department inlet connection" means a connection, sometimes referred to as a Siamese connection, through which the fire department can pump water into a standpipe system or sprinkler system.

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

"Industrial customer" means a customer who receives water for use in any capacity other than a residence.

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

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

"Person" means an individual, corporation, business, firm or agency.

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

"Pressure vacuum breaker assembly (PVBA)" means an approved assembly consisting of a spring loaded check valve loaded to the closed position, an independently operating air inlet valve loaded to the open position and installed as a unit with and between two resilient seated shutoff valves and having suitable connections for testing.

"Rate schedule" means the entire body of effective rates, rentals, charges and regulations as adopted by resolution of the city council.

"Reduced pressure backflow assembly (RPBA)" means an approved assembly consisting of two independently operating check valves, spring loaded to the closed position, separated by a spring loaded differential pressure relief valve loaded to the open position, and installed as a unit with and between two resilient seated shutoff valves and having suitable connections for testing.

"Reduced pressure detector assembly (RPDA)" means an approved assembly consisting of two reduced pressure backflow assemblies, set in a parallel manner, equipped with a meter on the bypass line to detect small amounts of water leakage or use.

"Service connection" means the pipe, valves and other facilities by means of which the water utility conducts water from its distribution mains to and through the meter, but does not include the piping from the meter to the property served.

"Service protection" means the appropriate type or method of backflow protection at the service connection, commensurate with the degree of hazard of the consumer's potable water system.

"Spill-resistant pressure vacuum breaker" means an assembly containing an independently operating internally loaded check valve and independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with a properly located resilient seated test cock, a properly located bleed/vent valve, and tightly closing resilient seated shutoff valves attached at each end of the assembly.

"Standard" means the quality of materials and standards for sizing and design adopted by the city of Toledo for the construction of improvements to be added to or served from the city water system.

"Surplus water" means that water from time to time available to the city at points of connection and remaining after unrestricted use of water for any and all purposes within the city.

"Water department" means the water department of the city of Toledo.

(Ord. 1093 § 3, 1980)

(Ord. No. 1320, § 1, 3-19-2008)

### **13.12.040 Water service—Boundaries.**

The department will furnish water to all of that area within the boundaries of the city of Toledo where facilities are available and to such other areas as in the sole discretion of the city council may be in the best interest of the city of Toledo to serve. The city council or the department shall not dispose of or sell any water except surplus water to any person outside the city boundaries.

(Ord. 1093 § 4, 1980)

**13.12.050 Water service— Application—Locations not previously served.**

Applicants requesting service in a location not previously served or a change in the size of an existing service shall submit a written application for water service accompanied by the prescribed connection fees and deposit as set forth in the rate schedule adopted by the council by resolution. The application shall state the following information.

- A. The date of application;
- B. The location of premises to be served;
- C. The date on which applicant will be ready for service;
- D. Whether the premises have ever before been supplied by the city water utility;
- E. The purpose for which the service is to be used;
- F. The size of the service;
- G. The address to which bills are to be mailed or delivered;
- H. Whether the applicant is an owner or tenant of, or agent for, the premises;
- I. An agreement to abide by all rules, regulations and ordinances of the city water utility, as now existing or as hereafter changed or amended, and that any delinquent water bills shall be and become a lien against said premises; and
- J. Such other information as the city water utility may reasonably request.

(Ord. 1093 § 5, 1980)

**13.12.060 Water service— Application—Locations previously served.**

Applicants requesting service in a location previously served by the city water utility may make their request by either writing, telephoning or personally contacting the utility office in the city hall. All customers, after having given such notice for the commencement of water service, shall submit a properly filled out and signed application for water service to the city water utility office and shall pay the prescribed fees and deposits as set forth in the rate schedule adopted by the council by resolution before water service is begun.

(Ord. 1102 § 1, 1980: Ord. 1093 § 6, 1980)

**13.12.070 Water service—Appropriate meter size.**

Since a water meter has both minimum and maximum measuring capabilities, the city manager may review the type, size and arrangement of meters, piping and flow-detecting devices; and, if he should consider the sizes requested to be improper for the flows and use desired, he may require that the application be amended accordingly.

(Ord. 1093 § 7, 1980)

**13.12.080 Water service—Deposit.**

A deposit in the amount set by the rate schedule adopted by the council by resolution shall be required with each application for water service. Upon the permanent discontinuance of water service, said amount shall be paid to the depositor, provided such depositor has complied with all of the rules and regulations contained herein and has made payment of all of the water charges imposed by this chapter. In case of the failure of the depositor to pay all of the water charges imposed, the amount of the delinquent water charges shall be deducted from the deposit, and the surplus, if any remains, shall be

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paid over to the depositor upon request. The city water utility, at its option, may refund a deposit at any time after a customer's credit has been established.

(Ord. 1093 § 8, 1980)

### **13.12.090 Water meters generally.**

- A. All persons using city water shall be served water through meters. The kind or make of said meters shall be approved or be as designated by the department. Meters shall be installed at the termination of the service connection.
- B. All new or replacement meters shall be owned and maintained by the department.
- C. Where a water meter or meters are used to measure the total water used for water districts or for group customers and where a meter is used to measure the total water used, as in apartment houses, the city will not furnish or read auxiliary meters or submeters used for the customer's convenience.
- D. It is the customer's responsibility to keep the water meter clear of all obstructions (including but not limited to landscaping, vehicles or structures) so it may be read. The city shall notify the customer of any obstruction. If an obstruction is not removed ten (10) calendar days after notice from the city, the city may terminate service or remove the obstruction and bill the customer for the cost of removal plus a twenty-five (25) percent administrative fee. If the cost of removal is not paid within thirty (30) days, the premises may be liened plus interest will accrue at a rate of nine (9) percent per annum until paid.

(Ord. 1295 §§ 1, 2, 2002; Ord. 1093 § 9, 1980)

### **13.12.100 Location of service pipe and meter.**

The location of the service pipe and meter shall be at the discretion of the city water utility. If a customer requests that a service pipe and meter be installed at a location other than that proposed by the city water utility and if there is an additional expense involved, the customer must pay the regular connection fee, plus the additional expenses to have the service pipe and meter installed at his preferred location.

(Ord. 1093 § 10, 1980)

### **13.12.110 Number of services to separate premises.**

Separated premises under single control or management will each be supplied through individual service connections unless the city water utility elects otherwise.

(Ord. 1093 § 11, 1980)

### **13.12.120 Service to multiple units.**

- A. Buildings with combined living or business quarters on the same premises under a single control or management may be served at the option of the applicant by either of the following methods:
  - 1. Through separate service connections to each or any unit; provided, that the pipeline system from each service is independent of the others, and is not interconnected;
  - 2. Through a single service connection to the entire premises, on which only one minimum charge will be applied.
- B. The responsibility for payment of charges for all water furnished to combined units, supplied through a single service connection of approved capacity, must be assumed by the applicant.

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(Ord. 1093 § 12, 1980)

### **13.12.130 Fire protection service.**

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

- A. The city water utility shall require a service meter of approved pattern to be furnished and maintained by the owner of any service system or combination hose and sprinkler system. The connection with the city main and the setting of the meter and the construction of a suitable meter chamber shall be made by the city water utility upon the payment of the connection fee as set by the council by resolution.
- B. When the owner of a building desires, or when the building code calls for, a certain size pipe to supply water to a wet or dry system without hose connections, such pipe or pipes may be covered by an approved proportional meter or a detector check. The owner or agent of such building shall agree in writing that water supplied through this service will not be used for any purpose except for extinguishing a fire. If at any time it is found that hose connections have been added to the system or that registration is recorded on the meter or detector check, the immediate installation of an approved meter may be required by the utility. Such water registered shall be charged for at double the regular meter rates.
- C. No charge will be made for water used in the extinguishing of fires if the owner or agent reports such use to the city water utility in writing within ten (10) days of such usage.
- D. Monthly standby charges for automatic fire service shall be as prescribed by the rate schedule adopted by the council by resolution. The charges shall be based on wet or dry sprinkling systems without hose or other connections. Combined systems will pay the regular meter minimums and the regular meter rates.
- E. Water for Fire Storage Tanks. Water may be obtained from a fire service for filling a tank connected with the fire service, but only if written permission is secured from the city water utility in advance and an approved means of measurement is available. The rates for general use will apply.
- F. Ownership of service connection and all equipment appurtenant thereto, excluding the meter, shall be the sole property of the city water utility, and no part of the cost thereof will be refunded to the applicant.
- G. Pressure and Supply. The city water utility assumes no responsibility for loss or damage because of lack of water pressure and merely agrees to furnish such quantities and pressures as are available in its general distribution system. The service is subject to shutdowns and variations required by the operation of the system.

(Ord. 1093 § 13, 1980)

### **13.12.140 Temporary water service during construction.**

An owner or contractor who requires temporary water service for construction or any other purpose shall be supplied with water by meter measurement and pay the customary connection fee, deposits and water user rates set forth by the rate schedule adopted by the council by resolution.

The customer shall use all possible care to prevent damage to the meter or to any other loaned facilities of the city water utility which are involved in furnishing the temporary service from the time they are installed until they are removed, or until forty-eight (48) hours' notice in writing has been given to the city water utility that the contractor or other person is through with the meter or meters and the installation. If the meter or other facilities are damaged, the cost of making repairs shall be paid by the customer.

(Ord. 1093 § 14, 1980)

**13.12.150 Discontinuance of water service.**

When a change of occupancy or legal responsibility takes place on any premises being served by the city water utility, or a customer wishes to have his water service discontinued, notice shall be given as set forth in [Section 13.12.180](#). If notice is not given, the outgoing customer or one having legal responsibility will be required to pay for water service until such notice has been received by the city water utility. The closing bill for the outgoing customer or one discontinuing legal responsibility will be calculated and mailed in the manner prescribed in [Section 13.12.420](#).

(Ord. 1093 § 15, 1980)

**13.12.160 Application to reestablish discontinued water service.**

Application in the form prescribed in [Section 13.12.050](#) of this chapter shall be made to the city water utility to reestablish discontinued water service to a property. If the discontinued service pipe and meter is, in the opinion of the city manager, still capable of being used, a reconnection charge shall be made as set forth in the rate schedule adopted by the council by resolution; otherwise, the applicable connection fee as set forth in the rate schedule shall be payable.

(Ord. 1093 § 16, 1980)

**13.12.170 Notices to customers.**

Notices required to be given by the city water utility to a customer will normally be given in writing and may be either delivered or mailed to him personally or delivered or mailed to him at the address to which his service is rendered.

(Ord. 1093 § 17, 1980)

**13.12.180 Notice from customers.**

Notice from the customer to the city water utility shall be given by him or his authorized representative by writing or telephoning the city water utility office or orally at the city water utility office in the city hall.

(Ord. 1093 § 18, 1980)

**13.12.190 Repair of leaks.**

- A. Every customer shall maintain his pipes, fittings, and fixtures in proper order and free from leakage or wastage. Where water is wastefully or negligently used on a customer's premises, seriously affecting the general service, the utility may discontinue the service if such conditions are not corrected within ninety-six (96) hours after giving the customer written notice.
- B. Where there is a leak between the main and the meter, the city water utility shall make all repairs free of charge. When a service pipe at the proper grade is damaged or destroyed by contractors or others, the person, contractor or company responsible for such damage or destruction shall pay the utility for the cost of repairing or replacing such pipes on the basis of the cost to the city in labor and in material, as defined in [Section 13.12.330\(A\)](#).

(Ord. 1093 § 19, 1980)

**13.12.200 Admission of city employees.**

Employees of the city shall be admitted during reasonable hours to customer's properties in order to inspect any water pipe, meter, appliance or fixture upon such premises. Such employees shall, on request, show proper identification.

(Ord. 1093 § 20, 1980)

**13.12.210 Use of water.**

- A. Except where it forms part of a manufactured product, no water shall be sold or conveyed beyond the property served without permission of the city water utility.
- B. The customer shall install a suitable valve, as close to the meter location as practicable, the operation of which will control the entire water supply from the service.
- C. The operation by the customer of the city water utility's valve in the meter box is not permitted.

(Ord. 1093 § 21, 1980)

**13.12.220 Abatement of noises and pressure surges.**

- A. No apparatus, fitting or fixture shall be connected, allowed to remain connected, or operated in a manner which will cause noises, pressure surges or other disturbances which may, in the opinion of the city manager, result in annoyance or damage to other customers or the waterworks system.
- B. If any such condition exists, the city manager may give notice to the customer to correct the fault within ninety-six (96) hours or such lesser period as may be specified in the notice.
- C. If the customer fails to comply with such notice within the time specified, the city manager may have the service shut off until the fault has been corrected.

(Ord. 1093 § 22, 1980)

**13.12.230 Prevention of contamination.**

- A. No person shall connect, cause to be connected, or allow to remain connected, any piping, fixture, fitting, container or other appliance in a manner which, under any combination of circumstances, may allow water from a source other than the city water utility's system, or wastewater, or any other harmful liquid or substance, to enter the city water utility's system.
- B. If a condition exists which, in the opinion of the city manager, is contrary to this section, he may give notice to the customer to correct the fault within ninety-six (96) hours or such lesser period as may be specified in the notice.
- C. If the customer fails to comply with such notice within the time specified, the city manager may have the service shut off until the fault has been corrected.

(Ord. 1093 § 23, 1980)

**13.12.240 Cross-connection.**

- A. Purpose. The purpose of this ordinance, in conjunction with the regulations set forth in [Chapter 10](#) of the Uniform Plumbing Code of the State of Oregon, the Uniform Fire Code, and the current edition of the Cross Connection Control Manual - Accepted Procedure and Practice published by the Pacific Northwest Section, American Water Works Association, and regulated by the State of Oregon Department of Human Services is to protect the health of the water consumer and the potability of the water in the distribution system. Inspection and regulation of all actual or potential cross

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connections between potable and non-potable systems is required in order to minimize the danger of contamination or pollution of the public potable water supply. Controlling or preventing cross connections is accomplished by either removing the cross connection or installing an approved backflow prevention assembly to protect the public potable water supply.

- B. **System Control.** The city of Toledo is required to eliminate or control all cross connections throughout its service area. All persons who submit an application for service, and all customers receiving service shall comply with the regulations set forth in this ordinance. The owner of the property upon which a cross connection occurs shall be fully responsible for all damages caused as a result of the cross connection.
- C. **Enforcement and Device Standards.** The city manager will enforce the provisions of this ordinance. The city manager may delegate the enforcement responsibilities to a certified cross connection control specialist/inspector. The provisions of this ordinance may supersede State of Oregon Health Division Regulations but in no case shall they be less stringent. All standards shall be approved by the department and the city manager. All backflow prevention assemblies required by this ordinance shall conform with the models approved by the Oregon State Health Division.

Approved backflow prevention assemblies required by this ordinance shall be installed under the direction of the public works director and/or under the supervision of the cross connection control specialist/inspector, and shall comply with city of Toledo Standard Specifications.

- D. **Device Testing.** All DCVAs, DCDAs, PVBAs, RPBAs, RPDAs, and SPVBA's are required to be tested immediately after installation and annually thereafter by a certified backflow device tester. All air gaps and AVBs installed in lieu of an approved backflow prevention assembly shall, at a minimum, be inspected on an annual basis. Reports for initial testing must be submitted to the department within three business days of installation. Annual testing of devices must occur within thirty (30) days of receipt of the annual test due notification from the department, and a completed test report must be submitted to the department within three business days of device testing. Test and inspections may be required on a more frequent basis at the discretion of the director.

All testers testing in the city of Toledo service area for the first time shall provide an opportunity for the cross connection inspector to witness a test performed by them in order for that test and all subsequent tests to be accepted by the city of Toledo. Any tester or company providing testing inside the Toledo service area shall contact the cross connection inspector of the city of Toledo prior to doing business in Toledo and provide a copy of their contractor's license, state certification and current test equipment calibration record. It is the responsibility of any tester or company to keep all licensing, certification and calibration records current and to communicate in writing annually to the city any and all changes related to this requirement which may have occurred during the previous year.

- E. **Right of Inspectors and Public Works Department Personnel to enter Premises.** Authorized employees of the city of Toledo with proper identification shall have free access at reasonable hours of the day to all areas of a premises or building to which water is supplied, for the purpose of evaluating the need for backflow protection. The city may refuse to supply service, or may terminate service, for failure to allow necessary inspections.

Failure of the customer to cooperate in the installation, maintenance, repair, inspection, or testing of a backflow prevention assembly required by this ordinance shall be grounds for termination of water service, or for the requirement of an air gap separation. The city may elect to install an appropriate backflow protection device at the property line if the immediate health of the citizens of Toledo is threatened. All costs associated with such installations by the city shall be the responsibility of the property owner, due and payable within one month of installation completion.

- F. **Violations.** Any person who violates this ordinance shall be subject to the penalty polices established in Toledo Municipal Code [Section 13.12.490](#)

(Ord. 1295 §§ 9, 10, 2002)

(Ord. No. 1320, 3-19-2008)

**13.12.250 Restrictions on use of water—Shortages.**

If a shortage of water exists at any time for any reason, the department shall have the authority at any time to restrict the use of water for lawn and garden sprinkling, car washing or any other nonessential use of water.

(Ord. 1093 § 25, 1980)

**13.12.260 Shutoffs—Repairs.**

- A. The department may at any time and without notice shut off water from the mains for repairs or other necessary purposes, and the department will not be responsible for any resulting damages. Reasonable efforts will be made to give notice of such shutoffs whenever possible.
- B. No water for steam boilers for power purposes shall be furnished by direct pressure from city lines. When water is temporarily shut off from the lines, the occupants of premises shall keep open all hot-water faucets to allow steam to escape from water heaters. The owner of the premises shall pay the city for all damages to any meter caused by steam or hot water.

(Ord. 1093 § 26, 1980)

**13.12.270 Tampering with city facilities—Generally.**

No person shall tamper or interfere with the city's water utility system, and no person shall, except as authorized by the city manager, connect to or operate any pipe, valve, meter, hydrant or other part of the city's water utility system.

(Ord. 1093 § 27, 1980)

**13.12.280 Tampering with city facilities—Pollution.**

No person shall throw or place in any water reservoir, water line or headworks, or any other part of the city's water system any dirt, rubbish, filth, wood, stones or any other substances or in any way pollute the water in any reservoir, supply line, headworks or other part of the water system.

(Ord. 1093 § 28, 1980)

**13.12.290 Tampering with city facilities—Connections, alterations turning on/off water.**

No person shall make connections with the water lines, make any alterations in any conduit pipes or other connection, connect lines when they have been disconnected, or turn water off or on to any premises without permission from the superintendent of the department.

(Ord. 1093 § 29, 1980)

**13.12.300 Tampering with city facilities—Liability for damage to system.**

The customer shall be liable for any damage to a meter or other equipment or property owned by the city water utility which is caused by an act of the customer, his tenants or agents. The city water utility shall be reimbursed by the customer for any such damage promptly on presentation of a bill.

(Ord. 1093 § 30, 1980)

**13.12.310 Pressure, supply and quantity.**

- A. The city water utility does not guarantee pressure or continuous supply of water, and does not accept responsibility at any time for the maintenance of pressure on its lines or for increases or decreases in pressure. The city water utility reserves the right at any and all times, without notice, to change operating water pressures, to shut off water, or otherwise to interrupt water service for the purposes of making repairs, extensions, alterations or improvements or for any other reason, and to increase or reduce pressure at any time. Neither the city water utility nor its officers, employees or agents shall incur any liability of any kind whatever by reason of the cessation in whole or in part of water pressure or water supply, or changes in operating pressures, or by reason of the water containing sediments, deposits or other foreign matter.
- B. Customers depending on a continuous and uninterrupted supply of water or having processes or equipment that require particularly clear or pure water shall provide such emergency storage, oversize piping, pumps, tanks, filters, pressure regulators, check valves, additional service pipes, or other means for a continuous and adequate supply of water suitable to their requirements.

(Ord. 1093 § 31, 1980)

**13.12.320 Removal and relocation of facilities.**

Property owners or others desiring the removal or relocation of city water utility owned facilities including service pipes, meters, valves, chambers, hydrants or other fittings and appurtenances, shall bear all costs of such removal or relocation. The city council may refuse to permit the removal or relocation of facilities, if, in their opinion, fire protection or the operation or control of any portion of the city water system or other public or private facilities would be endangered.

(Ord. 1093 § 32, 1980)

**13.12.330 Work done "at cost."**

Any person having work done at cost may select one of the following alternatives:

- A. Cost. Cost will include the amount expended by the city water utility for gross wages and salaries, employees' fringe benefits, materials, equipment rentals at rates paid by the city water utility or set by the city water utility for its own equipment or any other expenditures, incurred in doing the work, plus twenty (20) percent of the total of the items expended to cover administrative expenses.

The city water utility will supply an estimate of cost and will require an advance payment prior to commencement of the work. Any additional cost shall be paid to the city water utility and any surplus shall be refunded.

(Ord. 1295 § 3, 2002; Ord. 1093 § 33, 1980)

**13.12.340 Replacement of old service pipes.**

The city water utility will replace, at no cost to the customer, the city's service pipe when it has deteriorated to the point of leaking or significantly losing capacity with a new service pipe equal in size and capacity of the original installation.

(Ord. 1093 § 34, 1980)

**13.12.350 Ownership of service pipes and meters.**

The service connection and meter, whether located on public or private property, are the property of the city water utility, and the city water utility reserves the right to repair, replace and maintain it, as well as to remove it after discontinuance of service for a period of one year or longer. A new service shall be placed only upon the owner making an application and paying for a new connection in the regular manner.

(Ord. 1093 § 35, 1980)

**13.12.360 Ownership of private service pipes.**

Every private service pipe, beyond the meter, whether on private property or on the street, shall remain the property of the customer and he shall be responsible for its maintenance. If, in the installation, maintenance or removal of any private service pipe, it is necessary for any person to occupy or excavate in the street or to remove or relay any sidewalk or other street improvement, he shall do so in a manner satisfactory to the city manager, and shall obtain any permits required and pay the appropriate fees or charges.

(Ord. 1093 § 36, 1980)

**13.12.370 Changes in customers' equipment.**

- A. Wherever excessive flow or consumption periodically overloads the capacity of a meter used to supply service to any premises, the city manager may so notify the customer. The customer shall thereupon supply an estimate of his flow requirement and other pertinent data required by the city manager to enable him to estimate the size of an adequate meter and service pipe and to estimate the cost of its installation. The installation of an adequate meter and service pipe shall be at the cost of the customer.
- B. The city manager will notify the owner to apply for a larger meter and service pipe. If the application and deposit are not made within thirty (30) days, then the city may proceed with the work and charge the full cost to the owner, or the city water utility may discontinue service.

(Ord. 1093 § 37, 1980)

**13.12.380 Discontinuance of service— Unsafe apparatus.**

The city water utility may refuse to furnish water and may discontinue service to any premises where apparatus, appliances or equipment using water is dangerous, unsafe or is being used in violation of laws, ordinances or legal regulations.

(Ord. 1093 § 38, 1980)

**13.12.390 Discontinuance of service— Service detrimental to others.**

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

(Ord. 1093 § 39, 1980)

**13.12.400 Discontinuance of service— Penalty for turning on water without authority.**

Should the water be turned on by any water consumer or other person without authority from the city water utility, the water may then be shut off at the main or the meter removed.

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(Ord. 1093 § 40, 1980)

### 13.12.410 Extension of a water main.

- A. The extension of a water main to serve premises not previously served by the city water system shall be made at the discretion of the city council. The city water utility shall have the absolute right to determine the size and all other matters involved in the extensions of water mains. All necessary excavation and construction shall be done by the city or under the direct supervision of the city, and all water mains, pipes, fittings and other appurtenances shall remain the sole property of the city water utility, regardless of who pays for the extension of the water mains.
- B. Upon a request for water main extension, the city water utility may conduct a study of the projected annual income from water service charges resulting from the extension. If the annual income equals or exceeds fifteen (15) percent of the total cost of construction of the main extension, the city may construct the main extension at its own expense. If the annual income is less than fifteen (15) percent of the cost of construction, the owners of the property benefitted by the extension shall bear the entire cost of the water main construction. If it is in the best interest of the city to install a water main which is larger than necessary for present demand and if the owners of the property benefitted by the extension are paying for the cost of the water main construction, the city may contribute to the project an amount equal to the additional cost of installing the larger water main over the cost of installing the smaller main.

(Ord. 1093 § 41, 1980)

### 13.12.420 Billing practices.

- A. Meters will ordinarily be read at regular intervals for the preparation of monthly bills and as required for the preparation of opening, closing and special bills. The city water utility reserves the right to estimate meter readings in cases where actual meter readings are not available and to adjust consumptions when actual readings are obtained.
- B. Bills for water service will ordinarily be rendered monthly, unless otherwise provided in the rate schedule. The city water utility reserves the following options and rights:
  - 1. To read meters and render bills for lesser or longer periods than one month;
  - 2. To render bills on an estimated consumption basis in cases where the city water utility is unable to obtain actual meter readings; and
  - 3. To include with the regular service billing the amount of any valid obligation due the city water utility; or a deposit amount sufficient to bring the customer's total deposit to the full deposit limit.
- C. All bills for water service are due and payable in full at the city water utility office on or before the tenth day following the date of mailing the statement of said account or the date of presentation of said account. A reminder of the delinquency shall be sent at the next billing date on or about twenty (20) days after the account becomes delinquent. If payment of the delinquent bill has not been made within ten (10) days after presentation of the delinquent notice, a delinquent payment fee, as set by the council by resolution, shall be assessed and collected, and the account is subject to disconnection without further notice. A reconnection fee, as set by the council by resolution, payment in full of the delinquent bill and the delinquent payment fee, and the amount necessary to bring the deposit for the delinquent account to the full deposit limit shall be collected before service is restored where the service was turned off because of a delinquent account. The city manager, in cases of extreme hardship, shall have the discretion of renewing service to a delinquent account upon receipt of a plan for the payment of the overdue amount in installments.
- D. Closing bills for water service will ordinarily be prepared by the billing office within two weeks of the customer's request to discontinue water service. If there is an amount due, it will be due and payable as set out above. If there is a refund due the customer, a check will be sent with the closing bill.

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(Ord. 1295 § 4, 2002; Ord. 1171, 1985; Ord. 1102 § 2, 1980; Ord. 1093 § 42, 1980)

### **13.12.430 Responsibility for payment of bills.**

- A. The property owner of record shall be responsible for payment of all charges prescribed in this chapter. If the property is rented, the owner will be billed for water/sewer usage, unless the owner executes an agreement requesting the renter be billed directly and agrees to assume responsibility of all unpaid billings. However, the owner shall be notified at the same time the turnoff notice is sent. Such notice shall be sufficient if sent to the last known address of the property owner, his agent or assignee as determined from the records of the city. It shall be the responsibility of the property owner to inform the city when his property is occupied by a different renter.
- B. Any necessary repair to meters damaged by the owner or tenants of serviced premises shall be the responsibility of the owner of the premises.

(Ord. 1295 §§ 5, 6, 2002)

### **13.12.440 Liens and other collection enforcement procedures.**

Water and sewer use charges shall be a lien against the premises served from and after the date of billing and entry on the ledger or other records of the city pertaining to its water/sewer system; and such ledger records or other records (lien docket) shall be accessible for inspection by anyone interested in ascertaining the amount of such charges against the property. Whenever a bill for water or sewer service remains unpaid ninety (90) days after it has been rendered, the lien thereby created may be foreclosed in any manner provided by general state laws and/or city ordinances. After a charge has been unpaid for ninety (90) days an administrative fee of twenty-five (25) percent shall be added to the charge and interest shall accrue at nine percent per annum.

(Ord. 1295 §§ 7, 8, 2002)

### **13.12.450 Meter error—Test.**

- A. Prior to installation, each meter will be tested and no meter found to register more than two percent fast or slow under conditions of normal operation will be placed in service.
- B. On Customer Request.
  - 1. A customer may, giving not less than one week's notice, request the utility to test the meter serving his premises.
  - 2. The utility may require the customer to deposit an amount to cover the cost of the test, which amount shall be set by the council by resolution.
  - 3. This deposit will be returned if the meter is found to register more than two percent fast. The customer will be notified not less than five days in advance of the time and place of the test.

(Ord. 1093 § 45, 1980)

### **13.12.460 Meter error—Adjustment of bills.**

- A. Fast meters. When, after a test, a meter is found to be registering more than two per-fast under conditions of normal operation, the city water utility may refund to the customer the full amount of the overcharge based on corrected meter readings for a period not exceeding three months that the meter was in use for service to that customer.
- B. Slow Meters.

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1. When, after a test, a meter used for domestic or residential service is found to be registering more than twenty-five (25) percent slow, the city water utility may bill the customer for the amount of the undercharge based upon corrected meter readings for a period not exceeding one month that the meter was in use for service to that customer.
  2. When, after a test, a meter used for other than domestic or residential service is found to be registering more than five percent slow, the utility may bill the customer for the amount of the undercharge based upon correct meter readings for a period not exceeding one month that the meter was in use for service to that customer.
- C. Nonregistering Meters. The city water utility may bill the customer for water consumed while the meter was not registering. The bill will be at the minimum monthly meter rate or will be computed upon an estimate of consumption based either upon the customer's prior use during the same season of the year or upon a reasonable comparison with the use of other customers receiving the same class of service during the same period and under similar circumstances and conditions.
- D. Adjustments on Account of Underground Leaks. Where a leak exists underground between the meter and the building and the leak is repaired within ten (10) days after the owner, agent or occupant of the premises has been notified of the leakage, the utility may allow an adjustment of fifty (50) percent of the estimated excess consumption.

(Ord. 1093 § 46, 1980)

### **13.12.470 Billings of separate meters.**

Each meter on a customer's premises will be considered separately, and the readings of two or more meters will not be combined unless specifically provided for in the rate schedule or unless the city water utility's operating convenience requires the use of more than one meter. The minimum monthly charge for such combined meters will be based on the diameter of the total combined discharge areas of the meters.

(Ord. 1093 § 47, 1980)

### **13.12.480 Water user charges.**

Water user rates, charges, deposits, fees or other amounts of money to be collected shall be fixed by the city council by resolution, and may in like manner be amended or altered from time to time at the discretion of the city council.

(Ord. 1093 § 48, 1980)

### **13.12.490 Violation—Penalty.**

Violation of any section of this chapter will constitute a Class B infraction.

(Ord. 1244 § 4, 1996)

### **13.12.500 Water system boundary regulations.**

All of the regulations and other provisions contained in this chapter shall apply to all of the customers of the water utility system whether inside or outside of the boundaries of the city of Toledo.

(Ord. 1093 § 50, 1980)

## **Chapter 13.16 SEWER SYSTEM USE REGULATIONS**

### **Sections:**

[Article I. - Definitions](#)

[Article II. - Use of Public Sewers Required](#)

[Article III. - Private Sewage Disposal](#)

[Article IV. - Building Sewers and Connections](#)

[Article V. - Use of the Public Sewers](#)

[Article VI. - Protection from Damage](#)

[Article VII. - Powers and Authority of Inspectors](#)

[Article VIII. - Violation—Penalty](#)

## **Article I. Definitions**

[13.16.010 Definitions.](#)

### **13.16.010 Definitions.**

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

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

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

"Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

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

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

1. Division A, Agriculture, Forestry and Fishing.
2. Division B, Mining.
3. Division D, Manufacturing.
4. Division E, Transportation, Communications, Electric, Gas and Sanitary Services.
5. Division I, Services.

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

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

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

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

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

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

"Sanitary sewer" means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

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

"Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.

"Sewage works" means all facilities for collecting, pumping, treating and disposing of sewage.

"Sewer" means a pipe or conduit for carrying sewage.

"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 fifteen (15) minutes more than five times the average twenty-four (24) hour concentration or flows during normal operation.

"Storm drain" (sometimes termed "storm sewer") means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

"Superintendent" means the director of public works of the city of Toledo or his authorized deputy, agent or representative.

"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.

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

(Ord. 1194 Art. I §§ 1—21, 1990)

### **Article II. Use of Public Sewers Required**

[13.16.020 Unlawful to deposit waste.](#)

[13.16.030 Unlawful to discharge sewage to natural outlets.](#)

[13.16.040 Unlawful to use private sewage systems.](#)

[13.16.050 Connection to city sewer system required.](#)

#### **13.16.020 Unlawful to deposit 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 of Toledo, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.

(Ord. 1194 Art. II § 1, 1990)

**13.16.030 Unlawful to discharge sewage to natural outlets.**

It is unlawful to discharge to any natural outlet within the city of Toledo, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(Ord. 1194 Art. II § 2, 1990)

**13.16.040 Unlawful to use private sewage systems.**

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

(Ord. 1194 Art. II § 3, 1990)

**13.16.050 Connection to city sewer system 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 his 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 ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred fifty (150) feet (45.72 meters) of the property line.

(Ord. 1194 Art. II § 4, 1990)

**Article III. Private Sewage Disposal**

[13.16.060 Use of private system.](#)

[13.16.070 Permit required.](#)

[13.16.080 Connection to city sewer system.](#)

[13.16.090 Operation and maintenance.](#)

[13.16.100 Additional requirements.](#)

**13.16.060 Use of private system.**

Where a public sanitary sewer is not available under the provisions of [Section 13.16.050](#), the building sewer shall be connected to a private disposal system complying with the provisions of this article.

(Ord. 1194 Art. III § 1, 1990)

**13.16.070 Permit required.**

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit from Oregon DEQ, or its contract agent.

(Ord. 1194 Art. III § 2, 1990)

**13.16.080 Connection to city sewer system.**

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in [Section 13.16.050](#), 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 abandoned in accordance with state law at no expense to the city.

(Ord. 1194 Art. III § 3, 1990)

**13.16.090 Operation and maintenance.**

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

(Ord. 1194 Art. III § 4, 1990)

**13.16.100 Additional requirements.**

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Oregon DEQ.

(Ord. 1194 Art. III § 5, 1990)

**Article IV. Building Sewers and Connections**

[13.16.110 Permits required.](#)

[13.16.120 Permits—Classes— Application.](#)

[13.16.130 Installation and connection—Costs.](#)

[13.16.140 Separate sewers required.](#)

[13.16.150 Use of existing sewers in new construction.](#)

[13.16.160 Requirements for construction.](#)

[13.16.170 Elevation.](#)

[13.16.180 No connection of surface water collection systems.](#)

[13.16.190 Requirements for connection.](#)

[13.16.200 Inspections.](#)

[13.16.210 Excavations—Restoration of public property.](#)

[13.16.220 Laterals.](#)

**13.16.110 Permits required.**

- A. 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 superintendent. The permit may be granted when the procedures for connection or installation have been reviewed and approved by the superintendent and when the applicant has agreed to the inspection of the new line from the main pipeline to the user's premises.

- B. No person, firm or corporation shall cover a lateral or service sewer pipeline or cause such work to be done without first obtaining the approval of the superintendent after the official has personally inspected the line from the main line to the premises, including all new connections.

(Ord. 1194 Art. IV § 1, 1990)

**13.16.120 Permits—Classes— Application.**

There shall be two classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent.

(Ord. 1194 Art. IV § 2, 1990)

**13.16.130 Installation and connection—Costs.**

- A. Any connection to or extension of main sewer pipeline or installation of a lateral or service line shall be performed by the city of Toledo public works department if the department is available and able to perform the work as determined by the city managers; if not, the work shall be done under the inspection of and to the satisfaction of the city of Toledo.
- B. 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.
- C. If the department performs the above work, the user shall pay to the city the actual cost of the labor, materials and equipment required for the project plus twenty (20) percent of the total cost for administrative overhead. Regardless of who performs the work, the user shall pay the inspection fee set by the council by resolution. All charges and fees are due and payable before final connection to the sewerage system.

(Ord. 1194 Art. IV § 3, 1990)

**13.16.140 Separate sewers required.**

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

(Ord. 1194 Art. IV § 4, 1990)

**13.16.150 Use of existing sewers in new construction.**

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

(Ord. 1194 Art. IV § 5, 1990)

**13.16.160 Requirements for construction.**

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

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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.

(Ord. 1194 Art. IV § 6, 1990)

### **13.16.170 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.

(Ord. 1194 Art. IV § 7, 1990)

### **13.16.180 No connection of surface water collection systems.**

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

(Ord. 1194 Art. IV § 8, 1990)

### **13.16.190 Requirements for connection.**

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(Ord. 1194 Art. IV § 9, 1990)

### **13.16.200 Inspections.**

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

(Ord. 1194 Art. IV § 10, 1990)

### **13.16.210 Excavations—Restoration of public property.**

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

(Ord. 1194 Art. IV § 11, 1990)

### **13.16.220 Laterals.**

- A. Each user of the sewerage system shall own and maintain the lateral or service sewer pipeline, regardless of who installed it, from the main sewer line to the user's premises.
- B. If the city determines that a lateral is causing infiltration of surface, storm, or ground water into the sewerage system, the lateral shall be repaired at the expense of the user within sixty (60) days after

the date of official notice to the legal owner of the property to repair the lateral. No user shall cover or cause to be covered any such repair work before the city building official has inspected and approved the work.

- C. All storm sewers which are on private property and which connect directly to the sewer laterals or sewer lines shall be disconnected and properly capped at the expense of the user within thirty (30) days after the date of official notice to the legal owner of the property.
- D. The city reserves the right to enter private property at reasonable times for the purposes of inspecting and testing the sewer laterals.
- E. If the user fails to correct such infiltration, whether surface, storm, or ground water, within the prescribed time limit, the city may declare the lateral piping nonconforming. The user shall then be assessed and pay a monthly charge of three times the regular assessment for usage of the system.

(Ord. 1194 Art. IV § 12, 1990)

#### **Article V. Use of the Public Sewers**

[13.16.230 No discharge of surface waters.](#)

[13.16.240 Discharge to storm sewers.](#)

[13.16.250 Prohibited discharges.](#)

[13.16.260 Limited discharges.](#)

[13.16.270 Requirements for discharge of special wastes.](#)

[13.16.280 Interceptors.](#)

[13.16.290 Pretreatment or flow equalization.](#)

[13.16.300 Manholes.](#)

[13.16.310 Sampling and testing.](#)

[13.16.320 Special arrangements.](#)

#### **13.16.230 No discharge of surface 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.

(Ord. 1194 Art. V § 1, 1990)

#### **13.16.240 Discharge to storm sewers.**

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

(Ord. 1194 Art. V § 2, 1990)

**13.16.250 Prohibited discharges.**

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

- A. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- B. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l or CN in the wastes as discharged to the public sewer.
- C. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
- D. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not be limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and flesh-ings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(Ord. 1194 Art. V § 3, 1990)

**13.16.260 Limited discharges.**

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 superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as to quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- A. Any liquid or vapor having a temperature higher than one hundred fifty (150) degree F (sixty-five (65) degrees C).
- B. Any water or waste containing fats, gas, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (zero and sixty-five (65) degrees 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 superintendent.
- D. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- E. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent 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 superintendent as necessary,

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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 superintendent 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, chemical 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.

(Ord. 1194 Art. V § 4, 1990)

### **13.16.270 Requirements for discharge of special 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 [Section 13.16.260](#), and which in the judgment of the superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

- A. Reject the wastes;
- B. Require pretreatment to an acceptable condition for discharge to the public sewers;
- C. Require control over the quantities and rates of discharge; and/or
- D. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of [Section 13.16.320](#). If the superintendent 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 superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

(Ord. 1194 Art. V § 5, 1990)

### **13.16.280 Interceptors.**

Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, 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 superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(Ord. 1194 Art. V § 6, 1990)

**13.16.290 Pretreatment or flow equalization.**

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Ord. 1194 Art. V § 7, 1990)

**13.16.300 Manholes.**

When required by the superintendent, 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 accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(Ord. 1194 Art. V § 8, 1990)

**13.16.310 Sampling and testing.**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pHs are determined from periodic grab samples.)

(Ord. 1194 Art. V § 9, 1990)

**13.16.320 Special arrangements.**

No statement contained in this article 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.

(Ord. 1194 Art. V § 10, 1990)

**Article VI. Protection from Damage**

**[13.16.330 Damage—Disorderly conduct.](#)**

**13.16.330 Damage—Disorderly conduct.**

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

Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Ord. 1194 Art. VI § 1, 1990)

## **Article VII. Powers and Authority of Inspectors**

[13.16.340 Inspections—Right of entry.](#)

[13.16.350 Liability.](#)

[13.16.360 Easements.](#)

### **13.16.340 Inspections—Right of entry.**

The superintendent 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 superintendent or his representatives shall have no 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 waste treatment.

(Ord. 1194 Art. VII § 1, 1990)

### **13.16.350 Liability.**

While performing the necessary work on private properties referred to in [Section 13.16.340](#), the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in [Section 13.16.300](#).

(Ord. 1194 Art. VII § 2, 1990)

### **13.16.360 Easements.**

The superintendent 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 duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. 1194 Art. VII § 3, 1990)

## **Article VIII. Violation—Penalty**

[13.16.370 Notice.](#)

[13.16.380 Continued violation— Infraction.](#)

[13.16.390 Liability.](#)

**13.16.370 Notice.**

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

(Ord. 1194 Art. VIII § 1, 1990)

**13.16.380 Continued violation— Infraction.**

Continued violation beyond the time limit provided for in [Section 13.16.370](#) will constitute a Class A infraction.

(Ord. 1244 § 19, 1996: Ord. 1194 Art. VIII § 2, 1990)

**13.16.390 Liability.**

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

(Ord. 1194 Art. VIII § 3, 1990)

**Chapter 13.20 SEWER SYSTEM SERVICE CHARGES**

**Sections:**

[13.20.010 Purpose.](#)

[13.20.020 Definitions.](#)

[13.20.030 Sewer user charges.](#)

[13.20.040 Review and revision of charges.](#)

[13.20.050 Responsibility, payment, delinquencies and penalties.](#)

[13.20.060 Handling of funds.](#)

[13.20.070 Appeals.](#)

[13.20.080 Conformity with the law.](#)

**13.20.010 Purpose.**

In order to protect the waters within and adjacent to the city of Toledo (hereinafter referred to as the "city") from pollution and to promote the health, safety and welfare of the residents, a sanitary sewerage system has been constructed and is operated and maintained by the city of Toledo for the collection, treatment, and disposal of wastewater; and

In order to carry out its authorized function of sewage collection, treatment and disposal, it is necessary and in the public interest that the city establish and maintain charges for sewerage service in

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amounts sufficient to pay the expenses of operating and maintaining such facilities, to provide for replacement, and to provide a margin for reserve; and

The city has entered into a grant agreement with the Environmental Protection Agency (EPA) for construction of sewage collection, treatment and disposal facilities, in which the city has agreed that the costs of operating and maintaining the sewage collection, treatment and disposal works shall be distributed among all users of such collection, treatment and disposal works in general proportion to each user's contribution to the total wastewater loading of the sewerage system.

(Ord. 1195 § 1, 1990)

### 13.20.020 Definitions.

The definitions contained in [Chapter 13.16](#) are incorporated into this chapter. In addition, the following additional definitions shall be used:

"Collection, treatment and disposal works" means all facilities for collecting, pumping, treating and disposing of sewage. "Treatment works," "treatment system" and "sewerage system" shall be equivalent terms for "collection, treatment and disposal works."

"Collection system" means the system of public sewers to be operated by the city designed for the collection of sanitary sewage.

"Commercial user" means any premises used for commercial or business purposes which are not an industry as defined in this chapter.

"City engineer" means the consulting engineer retained by the city and so designated.

"Domestic waste" means any wastewater from dwellings.

"Operation and maintenance" means activities required to ensure the dependable and economical function of the collection and treatment works.

1. "Maintenance" means preservation of functional integrity and efficiency of equipment and structures. This includes preventive maintenance, corrective maintenance, and replacement of equipment.
2. "Operation" means control of the unit processes and equipment that make up the collection and treatment works. This includes keeping financial and personnel management records, laboratory control, process control, safety and emergency operation planning, employment of attorneys and consultants, payment of court costs, and payment of any costs or fees reasonably associated with any of the above.

"Person" means any individual, firm, company, private or governmental entity, association, society, corporation or group.

"Public treatment works" means a treatment works owned and operated by a public authority.

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

"Residential user" means user of a single family dwelling.

"Nonresident user" means any other user.

"Service area" means all the area served by the collection and treatment works and for which there is one uniform user charge system.

"User" means every person using any part of the public collection and treatment works of the city of Toledo.

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"User charge" means a charge levied on users of the collection and treatment works, paid by a user for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works under Section 204(b)(1)(A) of the Clean Water Act.

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

(Ord. 1195 § 2, 1990)

### 13.20.030 Sewer user charges.

- A. There are levied and imposed upon all users of the sewerage system, both inside and outside the city of Toledo, just and equitable charges for service, maintenance, operation, replacement taxes and other administrative costs of such collection and treatment works.
- B. The just and equitable rates and charges shall be fixed and thereafter amended from time to time by resolution of the council.
- C. The just and equitable charge to be paid by all users, except industrial users, of the sewerage system of the city of Toledo, Oregon, shall be a flat rate based on each one thousand (1,000) gallons of treated city water used on an average for the months of January through April. This charge is exclusive of the first one thousand (1,000) gallons of water used during a month (see subsection E of this section). The same charge shall remain in effect for the remaining months of the year until the average is calculated again. If there is no history for an account, the monthly average shall be established by the city manager based on the history of similar users.

If a user of the sewerage system is not also a user of the water system of the city of Toledo, Oregon, the charge to that user for sewerage service shall be based on the average monthly usage of all water users, except industrial users.

- D. Effective July 1, 1988, the just and equitable charge to be paid by all industrial users of the sewerage system of the city of Toledo, Oregon, shall be, at the option of the user, the charge set out in above and based on water usage by the customer or per one thousand (1,000) gallons of metered sewage flow. If the customer chooses the latter method, the customer shall install and maintain to the city's satisfaction a flow meter in the sewer lines carrying the customer's sewage.
- E. In addition to the above charges, each user of the sewerage system shall pay a base charge for each month of service billed after the effective date of the ordinance codified in this section. This charge covers the first one thousand (1,000) gallons of treated city water used to calculate the charge paid by the user under subsection C of this section.
- F. Every new user of the sewerage system shall pay a fee, set by resolution, for the inspection of the work performed in order to connect to the system.
- G. For all users who reside outside the boundaries of the city of Toledo the fees and charges payable in subsections C, D, E and F of this section shall be assessed a fair and appropriate "surcharge," set by resolution, and payable on their monthly bills equivalent to their equitable share of the system's investment costs being borne by their corresponding "in-city" users.
- H. In the case of new users, the sewer user charge for all occupied property shall begin sixty (60) days after the sewer service becomes available, or shall begin the day that connection is made to the public sewers, whichever occurs first. Should the owner of an occupied property provide to the city a letter from Oregon DEQ, or its contract agent, certifying the existence of a working private sewage disposal system, and it can be shown that said property is not using the collection system, the sewer user charge may be waived. Recertification of said private sewage disposal system shall be required every five years. The sewer user charge for all vacant, new property shall begin within thirty (30) days after the property is ready for occupancy or on the first day of occupancy, whichever occurs first. All unoccupied property which is ready for occupancy at the time that the sewer service becomes available shall be treated as occupied property. Once the sewer user charge has

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commenced, no credit shall be given for vacancy unless it can be demonstrated that water service to that property from any and all sources has been discontinued. In that case, the user charge shall be reinstated as soon as water service to that property from any source has begun. If the date on which the user charge is commenced or altered does not fall on the first day of a billing period, the charges shall be prorated.

- I. Each user shall be notified, on not less than an annual basis in conjunction with a regular bill, of that portion of the user charges which are attributable to the operation, maintenance and replacement of the wastewater collection treatment and disposal system.
- J. A just and equitable surcharge set by resolution shall be added to the monthly charge of those users discharging above unusual strength wastes into the sewage system.

(Ord. 1195 § 3, 1990)

### **13.20.040 Review and revision of charges.**

The sewer user charges established by resolution shall, as a minimum, be reviewed annually at the first city council meeting in March; and revised periodically to reflect actual costs of operation, maintenance and replacement of the collection and treatment works, and to maintain the equitability of the user charge based on the costs of operation and maintenance in proportion to each user's contribution to the total wastewater loading of the collection and treatment works.

(Ord. 1195 § 4, 1990)

### **13.20.050 Responsibility, payment, delinquencies and penalties.**

- A. The person who owns the premises served by the sewerage system shall be responsible for payment of the sewer user charge for that property, notwithstanding the fact that the property may be occupied by a tenant or other occupant who may be required by the owner to pay said charges. If the premises are owned by more than one person, each person shall be jointly and severally liable for payment of the user charge.
- B. The users of the sewerage system shall be billed on a monthly basis for services after they are rendered, at a charge to be established by resolution.
- C. The date of billing shall be the last day of the month for which the sewer user charge is calculated.
- D. Sewer user charges shall be due and payable to the city recorder no later than thirty (30) days after the date of billing.
- E. Sewer user charges levied in accordance with this chapter shall be a debt due to the city and lien upon the property served. If this debt is not paid within forty (40) days after it is due and payable, it shall be deemed delinquent and may be recovered by civil action in the name of the city against the property owner. Such lien may be foreclosed in a civil action in the name of the city against the property owner.
- F. In the event of a delinquency in the payment of sewer use charges, the city council shall, by resolution, set appropriate fees and charges to be added to outstanding sewer charges. Whenever a bill for sewer use charges is delinquent for twenty (20) days or more, interest at the rate of one and one-half percent per month shall also be charged. Interest or delinquent sewer use charges shall be charged for the entire month if the bill be delinquent for any day in that month.
- G. In the event of failure to pay sewer charges after they have become delinquent, the city shall have the right to remove or close sewer connections, or to discontinue city water services, and enter upon the property to accomplish such purposes. The expense of such discontinuance, removal or closing, as well as the expense of restoring service shall be a debt due to the city and a lien upon the property, and may be recovered by civil action in the name of the city against the property owner, the person or both.

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- H. Sewer service shall not be restored until all charges, including interest accrued and the expense of removal, closing, and restoration shall have been paid.
- I. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these charges. No new service will be provided or reconnected until all unpaid fees and penalties plus interest have been paid in full.
- J. The city council may adopt standards for waiver of all or part of the sewer charges in appropriate cases; provided, however, that any such waiver shall be limited to hookup charges, connection fees, and any debt service charges. Sewer charges for system operation, maintenance and replacement shall not be waived except in accordance with the rules and regulations of the United States Environmental Protection Agency.
- K. If any portion of a bill remains unpaid after ninety (90) days of the billing date, the city may disconnect the service as provided in subsection G of this section. The city recorder shall first give notice of such disconnection by registered or certified mail to the last known address of the user, no later than seven days before the scheduled date of disconnection. The city recorder may use the tax rolls of Lincoln County to give such notice. The failure of such owner or purchaser to receive such notice shall not invalidate the notice. If the user desires to be heard, the user shall, prior to the date of scheduled disconnection, submit any written grounds for such hearing to the city recorder, who shall transmit the same to the council for consideration at its next regular or special council meeting. The council shall hear and decide the matter at such next meeting and the customer shall be given the opportunity to be heard. If disconnection occurs, reconnection shall be made only by persons authorized by the city. Reconnection shall be made only if outstanding billings, and the costs of disconnection (by discontinuance, removal or closing) and the costs of reconnection have been paid. The disconnection and reconnection fees shall be either one hundred and fifty (150) percent of the city's actual costs, or one hundred dollars (\$100.00) whichever is less.

(Ord. 1195 § 5, 1990)

### 13.20.060 Handling of funds.

- A. Bills for sewer user charges shall be mailed to the address of the legal owner of the property receiving service, or in the case of new connections to that address specified in the application for permit to make the connection, unless or until a different owner or user of the property is reported to the city.
- B. All collections of sewer user charges shall be made by the treasurer for the city. Sewer user charges shall be computed as provided in [Section 13.20.030](#) of this chapter and shall be payable as provided in [Section 13.20.050](#) of this chapter.
- C. The city treasurer is directed to deposit in the sewer fund all of the gross revenues received from charges and fees collected for the use of the sewerage system as herein provided.
- D. The revenue thus deposited in the sewer fund shall be used exclusively for the operation, maintenance, replacement and repair of the sewerage system; reasonable administration costs; expenses of collection of charges imposed by this chapter and of connection fees provided for in the city of Toledo sewerage system use and regulation ordinance, together with any attorney fees, investigative fees or court costs incurred therein; and payments of the principal and interest on any debts in connection with the sewerage system of the city of Toledo.

(Ord. 1195 § 6, 1990)

### 13.20.070 Appeals.

- A. Any sewer user who feels that that person's sewer user charge is unjust and inequitable as applied to that person's premises under the foregoing provisions may, within ten (10) days of the city council's resolution establishing charges, make written application to the city council requesting a

review of his/her user charge. Said written request shall, where necessary, show the actual or estimated average flow of that person's wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made.

- B. Review of the request shall be made by the city council and the city manager. The city manager shall advise the council if the request is substantial or not, or recommend further study of the matter by the city manager.
- C. If the city council determines the request is substantiated, the user charge for the user shall be recomputed, based on the approved revised flow or strength data, and the new charges thus recomputed shall be applicable retroactively up to six months, as appropriate.
- D. Any appeal undertaken herein shall not excuse the user from paying all sewer user charges as they are assessed. Failure to pay such charge shall subject the user to the penalties provided in [Section 13.20.050](#). A subsequent ruling on appeal favorable to the sewer user shall not act to extinguish any penalties or interest assessed against the user for nonpayment of any user fees; provided, however, that such penalties and interest shall be recomputed consistent with any reduction in user fees allowed on appeal.

(Ord. 1195 § 7, 1990)

### **13.20.080 Conformity with the law.**

This chapter shall not substitute for or eliminate the necessity of conformity with any and all laws or rules of the state of Oregon or its agencies, or any other ordinance, rule or regulation of the city of Toledo.

(Ord. 1195 § 8, 1990)

## **Chapter 13.24 UTILITY SERVICE AND DEVELOPMENT CHARGE [11](#)**

### **Sections:**

[13.24.010 Purpose.](#)

[13.24.020 Scope.](#)

[13.24.030 Definitions.](#)

[13.24.040 System development charge established.](#)

[13.24.050 Methodology.](#)

[13.24.060 Authorized expenditures.](#)

[13.24.070 Expenditure restrictions.](#)

[13.24.080 Improvement plan.](#)

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[13.24.100 Collection of charge.](#)

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[13.24.120 Exemptions.](#)

[13.24.130 Credits.](#)

[13.24.140 Notice.](#)

[13.24.150 Segregation and use of revenue.](#)

[13.24.160 Refunds.](#)

[13.24.170 Appeal procedure.](#)

[13.24.180 Prohibited connection.](#)

[13.24.190 Penalty.](#)

[13.24.200 Severability.](#)

#### **13.24.010 Purpose.**

This chapter is intended to provide authorization for system development charges for capital improvements pursuant to ORS Revised Statutes 223.297 through 223.314 for the purpose of creating a source of funds to pay for the installation, construction, and extension of capital improvements for water, wastewater, storm drainage, transportation, and parks. These charges shall be collected at the time of the development and redevelopment of properties which increase the use of capital improvements and generate a need for those facilities.

(Ord. No. 1335, § 3, 6-7-2010)

#### **13.24.020 Scope.**

The system development charge imposed by this ordinance is separate from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law or imposed as a condition of development or based upon the ownership of property. The system development charge imposed by this section is not classified by the city, or intended to be, a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Article XI Section 11B, of the Oregon Constitution or the legislation implementing that section. The system development charge imposed herein is also found to be an incurred charge within the meaning of Section 11b and Article XI of the Oregon Constitution and the statutes implementing it.

(Ord. No. 1335, § 4, 6-7-2010)

#### **13.24.030 Definitions.**

For purposes of this ordinance, the following mean:

"Applicant" shall mean the owner or other person who applies for a residential, commercial, industrial, or other connection to the city's water supply system or sanitary sewer system and/or who develops property within the city's Urban Growth Boundary.

"Building" shall mean any structure, either temporary or permanent, built for the support, shelter, or enclosure of persons or property of any kind and for any public, commercial, industrial, or other use. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintenance during the term of a building permit.

"Capital improvements" means public facilities or assets used for:

- (a) Wastewater collection, transmission, treatment and disposal, or any combination.
- (b) Water supply, treatment, distribution, storage, metering, fire protection, or any combination.
- (c) Drainage and flood control.
- (d) Transportation facilities including vehicle and pedestrian.
- (e) Parks and recreation.

"Citizen or other interested person" shall mean any person whose legal residence is within the service area of the city, as evidenced by registration as a voter within the city, or by other proof of

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residency; or a person who owns, occupies, or otherwise has an interest in real property which is located within the city service area; or a person who owns, occupies, or otherwise has an interest in real property which is served by the city's water supply system or sanitary sewer systems; or is otherwise subject to the imposition of systems development charges, as outlined in this chapter.

"City" means the city of Toledo.

"Development" means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage or activities. Development includes redevelopment of property, dividing of land into two or more parcels (including partitions and subdivisions), and creating or termination of a right of access. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved lands. Development also includes making any physical change in the use of a structure or land which increases the usage of any capital improvements or which may contribute to the need for additional or enlarged capital improvements, as determined by city.

"Improvement fee" means a fee for costs associated with capital improvements to be constructed after the date fee is established pursuant to [Section 13.24.040](#) of this ordinance.

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

"Methodology" shall mean the system development charge methodology required by ORS 223.304 (1) and(2).

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

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

"Permittee" means the owner to whom a building permit, development permit, a permit or plan approval to connect to the sewer system, or right-of-way access permit is issued.

"Qualified public improvement," means a capital improvement that is:

- (a) Required as a condition of development approval;
- (b) Identified in the plan adopted pursuant to [Section 13.24.080](#) of this chapter, and is either:
  - (1) Not located on or contiguous to a parcel of land that is the subject of the development approval; or
  - (2) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

"Reimbursement fee" means a fee for costs associated with capital improvements constructed or under construction on the date the fee is established pursuant to [Section 13.24.040](#) of this ordinance.

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

(Ord. No. 1335, § 5, 6-7-2010)

**13.24.040 System development charge established.**

- A. The system development charges shall be established and may be revised by resolution of the council relying on an approved methodology and system development charge project plan. The system development charge project plan, methodology and amount of charge may be adopted in a single resolution, and more than one type of SDC (water, sewer, storm, transportation and park) can be included in a single resolution.
- B. Unless otherwise exempted by the provisions of this chapter, or other local or state law, a system development charge is imposed upon all development within the city, upon connection to the water and/or sewer system, and upon all development outside the boundary of the city that connects to or which will other use or create a need for sewer facilities, water facilities, storm sewers, streets, or parks and open space of the city.

(Ord. No. 1335, § 6, 6-7-2010)

**13.24.050 Methodology.**

- A. The methodology used to establish the reimbursement fee shall consider the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the city council. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.
- B. The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.
- C. The methodology used to establish improvement fees or reimbursement fees, or both, shall be adopted by resolution of the council.

(Ord. No. 1335, § 7, 6-7-2010)

**13.24.060 Authorized expenditures.**

- A. Reimbursement fees shall only be applied to capital improvements associated with the system for which the fees are assessed, including expenditures relating to repayment of indebtedness.
- B. Improvement fees.
  - 1. Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of indebtedness. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or providing new facilities. The portion of the capital improvements funded by improvement fees must be related to demands created by current or projected development.
  - 2. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the plan adopted by the city pursuant to [Section 13.24.080](#) of this ordinance.
- C. Notwithstanding subsection B(1) and B(2) of this section, system development charge revenues may be expended on the direct costs of complying with the provisions of this chapter, including the costs of developing system development charge methodologies, and providing an annual accounting of system development charge expenditures and other costs directly related to or required for the administration and operation of this system development charge program.

(Ord. No. 1335, § 8, 6-7-2010)

**13.24.070 Expenditure restrictions.**

- A. System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.
- B. System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements.

(Ord. No. 1335, § 9, 6-7-2013)

**13.24.080 Improvement plan.**

- A. Prior to the establishment of a system development charge, the council shall adopt a capital improvement plan that includes a list of:
  - 1. The capital improvements that the city intends to fund in whole or in part with the improvement fee revenues; and
  - 2. The estimated cost and time of construction of each improvement.
- B. In adopting this plan, the city may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this section.
- C. The city may modify such plan and list at any time. If the amount of system development charges will be increased by a proposed modification to the list of capital improvements to the capital improvement plan, the city shall:
  - 1. Provide at least thirty (30) days' notice prior to adopting the modification to those who have requested notice; and
  - 2. Hold a public hearing if a written request for a hearing is received at least seven days prior to the date scheduled for adoption of the proposed modification.

(Ord. No. 1335, § 10, 6-7-2010)

**13.24.090 Amending the methodology.**

- A. Before amending the methodology, the council shall:
  - 1. At least ninety (90) days prior to an amendment to the methodology, provide written notice to persons who have requested notice pursuant to [Section 13.24.140](#)
  - 2. Council shall hold a public hearing if the city receives a written request for a hearing on the proposed modification within seven days of the date of the proposed modification is scheduled for adoption;
  - 3. Make the revised methodology available to the public at least sixty (60) days prior to the first public hearing of the amendment;
  - 4. The failure of a person on the list to receive a notice that was mailed does not invalidate the action of the city.
- B. Legal action intended to contest the methodology use for calculating a system development charge may not be filed after sixty (60) days following modification of the system development charge ordinance or resolution.
- C. A change in the amount of a reimbursement fee or an improvement fee is not a modification of the system development charge methodology if the change is based on a change in project costs, including cost of materials, labor and real property, or on a provision for a periodic adjustment

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included in the methodology or adopted by separate ordinance or resolution, consistent with state law.

(Ord. No. 1335, § 11, 6-7-2010)

### **13.24.100 Collection of charge.**

- A. The system development charge is payable upon issuance of:
  - 1. A building permit;
  - 2. A development permit for development not requiring the issuance of a building permit;
  - 3. A permit to connect to the water system; or
  - 4. A permit to connect to the sewer system.
- B. The system development fee charge for subsection A shall be assessed at the rate in effect at the time of permit application. For property annexed to the city after application for but prior to issuance of a building permit, the system development charge shall be assessed at the rate payable in the city at the time of permit application.
- C. If development is commenced or connection is made to the water system, sewer system, or stormwater system without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required.
- D. The city manager or the city manager's designee shall collect the applicable system development charge(s) from the permittee.
- E. The city manager or the city manager's designee shall not issue such permit or allow such connection until the charge has been paid in full, or until provision for installment payments has been made pursuant to [Section 13.24.110](#), or unless an exemption is granted pursuant to [Section 13.24.120](#) of this chapter.

(Ord. No. 1335, § 12, 6-7-2010)

### **13.24.110 Installment payment.**

- A. When a system development charge is due and collectable, the owner of the parcel of land subject to the development charge may apply for payment in twenty (20) semi-annual installments, to include interest on the unpaid balance, in accordance with ORS 223.208. A shorter payment plan is acceptable if approved by the council.
- B. The city manager shall provide application forms for installment payments which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.
- C. An applicant for installment payment shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the property and that the interest of the applicant is adequate to secure payment of the lien.
- D. The city manager shall report to the council the amount of the system development charge, the dates on which payments are due, the name of the owner, and the description of the parcel.
- E. The city manager shall docket the lien in the lien docket. From that time the city shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by resolution of the council. The lien shall be enforceable in the manner provided in ORS Chapter 223 and shall be superior to all other liens pursuant to ORS 223.230.

(Ord. No. 1335, § 13, 6-7-2010)

**13.24.120 Exemptions.**

- A. Additions to single-family dwelling that do not constitute the addition of a dwelling unit, as defined by the Zoning Code pursuant to [Chapter 17.04](#) of this code are exempt from all portions of the system development charge.
- B. An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of a capital improvement are exempt from all portions of the system development charge.
- C. Any structure which is built to replace a structure that was destroyed, demolished or removed shall not be assessed systems development charges if construction of the new structure is completed within eighteen (18) months of the time that the original structure was destroyed, demolished, or removed; provided, however, that any new structure does not increase the usage of any capital improvement.
- D. The city of Toledo.
- E. A building or other structure for which a building permit application was filed prior to the effective date of the charge or increase in the charge, providing the information accompanying the application was sufficiently complete to meet the requirements for issuance of a building permit for the entire structure, and substantial construction begins within one hundred eighty (180) days of the date the permit was issued. Accordingly, an owner shall otherwise remain responsible for those system development charges existing at the time charges are established and/or revised by resolution of the council pursuant to [Section 13.24.040](#)

(Ord. No. 1335, § 14, 6-7-2010)

**13.24.130 Credits.**

- A. When a development occurs that is subject to a system development charge, the system development charge for the existing use, if applicable, shall be calculated. If this amount is less than the system development charge for the use that will result from the development, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge. If a change in use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required. No refund or credit shall be given.
- B. A credit of the improvement fee portion of the system development charge only shall be given to the permittee against the cost of the system development charge charged, for the cost of a qualified public improvement, upon acceptance by the city of the public improvement. The credit shall not exceed the amount of the improvement fee even if the cost of the capital improvement exceeds the improvement fee.
- C. If a qualified public improvement is located in whole or in part on or contiguous to the property that is the subject of the development approval and is required to be built larger or with greater capacity than is necessary for the particular development project, a credit shall be given for the cost of the portion of the improvement that exceeds the city's minimum standard facility size or capacity needed to serve the particular development project or property. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit under this subsection. The request shall be filed in writing no later than 60 days after acceptance of the improvement by the city. The city may deny the credit provided for in this section if the city demonstrates that the application does not meet the requirements of this section or if the improvement for which credit is sought was not included in the improvement plan pursuant to [Section 13.24.080](#) of this ordinance.
- D. When construction of a qualified public improvement located in whole or in part or contiguous to the property that is the subject of development approval gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project, the credit in excess of the

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improvement fee for the original development project may be applied against improvement fees that accrue in subsequent phases of the original development project.

- E. Credit shall not be transferable from one development to another.
- F. Credit shall not be transferable from one type of system development charge to another.
- G. Credits shall be used within ten (10) years from the date the credit was given.
- H. For all credits under any portion of this section, the property owner is responsible for providing the facts justifying a credit.

(Ord. No. 1335, § 15, 6-7-2010)

### **13.24.140 Notice.**

- A. The city shall maintain a list of persons who have made a written request for notification prior to adoption or modification of a methodology for any system development charge. Written notice shall be mailed to persons on the list at least forty-five (45) days prior to the first hearing to adopt or amend a system development charge, and the methodology supporting the adoption or amendment shall be available at least thirty (30) days prior to the first hearing to adopt or amend. The failure of a person on the list to receive notice that was mailed does not invalidate the action of the city.
- B. The city may periodically delete names from the list, but at least thirty (30) days prior to removing a name from the list, the city must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.

(Ord. No. 1335, § 16, 6-7-2010)

### **13.24.150 Segregation and use of revenue.**

- A. All funds derived from a system development charge are to be segregated by accounting practices from all other funds of the city. That portion of the system development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in this chapter.
- B. The city manager shall provide the city council with an annual accounting, based on the city's fiscal year, for system development charges showing the total amount of system development charge revenues collected for each type of charge and the projects funded from each account in the previous fiscal year. A list of the amounts spent on each project funded in whole or in part, with system development charge revenues shall be included in the annual accounting.
- C. The moneys deposited into the system development charge account shall be used solely as allowed by this chapter and state law, including, but not limited to:
  - 1. Design and construction plan preparation;
  - 2. Permitting and fees;
  - 3. Land and materials acquisition, including any cost of acquisition or condemnation;
  - 4. Construction of capital improvements;
  - 5. Design and construction of new facilities required by the construction of capital improvements and structures;
  - 6. Relocating utilities required by the construction of improvements;
  - 7. Landscaping;
  - 8. Construction management and inspection;
  - 9. Surveys, soils, and material testing;

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10. Acquisition of capital equipment;
11. Repayment of moneys transferred or borrowed from any budgetary fund of the city which were used to fund any of the capital improvements as herein provided;
12. Payment of principal and interest, necessary reserves and cost of issuance under bonds or other indebtedness issued by the city to fund capital improvements.

(Ord. No. 1335, § 17, 6-7-2010)

### **13.24.160 Refunds.**

- A. Refunds may be given by the city upon finding that there was a clerical error in the calculation of the system development charge.
- B. Refunds shall not be allowed for failure to timely claim credit or for failure to timely seek an alternative system development charge rate calculation at the time of submission of an application for a building permit.

(Ord. No. 1335, § 18, 6-7-2010)

### **13.24.170 Appeal procedure.**

- A. A person challenging the propriety of an expenditure of system development charge revenues may appeal the decision of the expenditure to the council by filing a written request with the city manager describing with particularity the decision and the expenditure from which the person appeals. An appeal of the expenditure must be filed within two (2) years of the date of the alleged improper expenditure.
- B. Appeals of any other decision required or permitted to be made by the city manager under this ordinance must be filed in writing with the city manager within ten (10) days of the decision.
- C. After providing notice to the appellant, the city council shall determine whether the city manager's decision or the expenditure is in accordance with this chapter and the provision of ORS 223.297 to 233.314 and may affirm, modify, or overrule the decision. If the council determines that there has been an improper expenditure of system development charge revenues, the council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent. The decision of the council shall be reviewed only as provided in ORS 34.010 to 34.100, and not otherwise.
- D. A legal action challenging the methodology adopted by the city council pursuant to [Section 13.24.050](#) shall not be filed later than 60 days after adoption. A person shall contest the methodology used for calculating a system development charge only as provided in ORS 34.010 to ORS 34.100, and not otherwise.

(Ord. No. 1335, § 19, 6-7-2010)

### **13.24.180 Prohibited connection.**

No person may connect to the water or sewer system of the city or obtain a building permit unless the appropriate system development charges have been paid, or the installment payment method has been applied for and approved.

(Ord. No. 1335, § 20, 6-7-2010)

**13.24.190 Penalty.**

Violation of this chapter is a Class B infraction punishable by a fine not to exceed five hundred dollars (\$500.00).

(Ord. No. 1335, § 21, 6-7-2010)

**13.24.200 Severability.**

The provisions of this ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this ordinance shall be in full force and effect and be valid as is such invalid portion thereof had not been incorporated herein.

(Ord. No. 1335, § 22, 6-7-2010)

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FOOTNOTE(S):

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**Editor's note**— Ord. No. 1335, § 1, adopted June 7, 2010, repealed the former Ch. 13.24, §§ 13.24.010—13.24.080, and enacted a new Ch. 13.24 as set out herein. The former Ch. 13.24 pertained to similar subject matter and derived from Ord. 928, §§ 1—8, adopted 1973; Ord. 1100, §§ 1—3, adopted 1980; and Ord. No. 1162, adopted 1984. ([Back](#))

**Chapter 13.28 SPECIAL ASSESSMENT DEFERRALS FOR SENIOR CITIZENS**

**Sections:**

[13.28.010 Purpose.](#)

[13.28.020 Senior citizen defined.](#)

[13.28.030 Qualifications of senior citizens.](#)

[13.28.040 Deferral of assessment.](#)

[13.28.050 Investigation of status of land.](#)

[13.28.060 Assessment to be a lien.](#)

[13.28.070 Election.](#)

**13.28.010 Purpose.**

The purpose of this chapter is to permit qualified senior citizens to have deferred the special assessments that may be levied against their residence for streets, curbs, storm sewers, sanitary sewers and related improvements.

(Ord. 937 § 1, 1974)

**13.28.020 Senior citizen defined.**

A "senior citizen" is one who is sixty-five (65) years of age or more on or before January 1st of the year in which the assessment in question is to be levied.

(Ord. 937 § 2, 1974)

**13.28.030 Qualifications of senior citizens.**

To qualify for this senior citizen assessment deferral program:

- A. The property to be assessed must be owned by a senior citizen, or if owned by a husband and wife then only one of them needs to be a senior citizen.
- B. The property to be assessed must be the residence of the senior citizen.
- C. The senior citizen shall have an income not to exceed three thousand six hundred dollars (\$3,600.00) and if he is married, then their joint income shall not exceed four thousand one hundred dollars (\$4,100.00) and further, not to exceed an increase of more than four hundred dollars (\$400.00) for each additional dependent that is living with them during the calendar year preceding the one in which the assessment is to be levied.

(Ord. 937 § 3, 1974)

**13.28.040 Deferral of assessment.**

To the extent that funds are conveniently available to the city, a qualified senior citizen may choose to have deferred the special assessment for streets, curbs, storm sewers, sanitary sewers, and related improvements that are to be levied against his or her residence. Such assessments shall bear interest from the date of assessment against the residence until paid in full at the rate established in the local improvement district formed to make the specific improvement. If the property ceases to be the residence of the senior citizen and his or her spouse for the reason of sale or rental of the property or the death of both the senior citizen and his or her spouse or for any other reason, the amount deferred to that date, including interest due on that amount, shall become due and payable.

(Ord. 1111, 1980: Ord. 937 § 4, 1974)

**13.28.050 Investigation of status of land.**

As frequently as appears appropriate, the staff shall review the county records relating to deferred special assessments and shall also make such investigations as appear appropriate to learn of any other material changes in the status of the subject land.

(Ord. 937 § 5, 1974)

**13.28.060 Assessment to be a lien.**

Any special assessment that is deferred by the terms of this chapter shall become a lien on the land just as though the ordinance codified in this chapter had not been adopted. When such assessment becomes due by the terms of [Section 13.28.040](#) of this chapter, it may be enforced and collected as provided in state law for the collection of assessments or by any other means provided by law.

(Ord. 937 § 6, 1974)

**13.28.070 Election.**

A qualified senior citizen who elects to have a special assessment deferred pursuant to the provisions of this chapter, shall enter into a contract with the city to be prepared by the city attorney evidencing said election and the terms thereof.

(Ord. 937 § 7, 1974)

**Chapter 13.32 UNDERGROUND UTILITIES**

**Sections:**

[13.32.010 Required.](#)

[13.32.020 Variance.](#)

[13.32.030 Violation—Penalty.](#)

**13.32.010 Required.**

All persons or parties owning real property within the city of Toledo and receiving utility services thereon, including, but not limited to, electricity, telephone, telegraph and cable television, shall provide for receiving such services through underground facilities within ninety (90) days after receiving written notification from the suppliers of such services that underground facilities for the distribution of such services are available. Thereafter, all wires, cables, transformers, circuit breakers, insulators and other equipment and facilities for receiving electrical, telephone, telegraph and cable television service shall be located underground, except service meters located at the structure, surface-mounted connection boxes, and surface-mounted equipment.

(Ord. 1034 § 1, 1977)

**13.32.020 Variance.**

The city council, upon appeal, is authorized to grant a variance in the requirements of this chapter when the applicant can show that by reason of peculiar and exceptional conditions the strict application of this chapter would result in real and unnecessary hardship and the council through investigation and based upon the evidence before it is satisfied that the granting of the variance will alleviate a hardship and will not be detrimental to the welfare of the city and adjacent property. In granting such variance, the city council may impose such requirements upon the applicant as may be necessary under the circumstances to carry out the intent and purpose of this chapter.

(Ord. 1034 § 2, 1977)

**13.32.030 Violation—Penalty.**

Violation of this chapter will constitute a Class A infraction.

(Ord. 1244 § 3, 1996)

**Chapter 13.36 STREET LIGHTING UTILITY FEE**

**Sections:**

[13.36.010 Purpose.](#)

[13.36.020 Imposition of street lighting fee.](#)

[13.36.030 Collection.](#)

[13.36.040 Lighting service charge account.](#)

### **13.36.010 Purpose.**

The city council finds and determines that it is an obligation for occupancy of residential, commercial, and industrial property to provide sufficient lighting of streets and public places adjoining said properties in such a manner as to promote traffic safety, increase visibility that will enhance personal security and deter crimes against persons and property, and generally promote the safety of persons using said streets and public places.

The structure of this lighting utility is intended to be a fee for service and not a charge against property. The person responsible for paying the city's water and sewer utility charges is responsible for paying the street lighting fee which in most cases is the occupant of improved property. Therefore, the fee is not necessarily imposed on the owner of the property.

(Ord. 1303 § 2, 2004)

### **13.36.020 Imposition of street lighting fee.**

- A. The obligation to pay street lighting fees arises when a person responsible uses street lighting services. It is presumed street lighting services are used whenever there is an improved occupied premises.
- B. Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the city, the person(s) paying the city's water and/or sewer utility charges shall pay the street lighting fee of two dollars (\$2.00) per month. On or before July 1st annually hereafter the city council shall, by resolution, set the amount of the monthly street lighting fee. A request for water or sewer service will automatically initiate appropriate billing for street lighting services.

(Ord. 1303 § 3, 2004)

### **13.36.030 Collection.**

Street lighting utility fees shall be collected monthly. Statements for the user fees shall be included in the city utility billing sent to those addresses located within the city limits of Toledo and fees collected pursuant to Municipal Code Chapters [13.12](#) and [13.20](#).

(Ord. 1303 § 4, 2004)

### **13.36.040 Lighting service charge account.**

All street lighting utility fees shall be placed in the general fund on a separate line item and shall be used only for the operation of street lights.

(Ord. 1303 § 5, 2004)

## **Chapter 13.40 ROAD MAINTENANCE FUND**

### **Sections:**

[13.40.010 Title.](#)

[13.40.020 Purpose.](#)

[13.40.030 Definitions.](#)

[13.40.040 Regulatory program.](#)

[13.40.050 Administrative policies.](#)

[13.40.060 Road maintenance user fee.](#)

[13.40.070 Appeal procedure.](#)

[13.40.080 Enforcement.](#)

[13.40.090 Severability.](#)

### **13.40.010 Title.**

This chapter shall be known as the "Road Maintenance Fund".

(Ord. No. 1325, § 1, 5-6-2009)

### **13.40.020 Purpose.**

For the purpose to establish a stable funding source to maintain safe road conditions and provide for periodic improvements to road segments before reaching poor conditions.

The structure of this maintenance fund is intended to be a fee for service and not a charge against property. The person responsible for paying the city's water and sewer utility charges is responsible for paying the road maintenance fee, which in most cases is the occupant of improved property. Therefore, the fee is not necessarily imposed on the owner of the property.

(Ord. No. 1325, § 1, 5-6-2009)

### **13.40.030 Definitions.**

The following words and phrases, as used within this chapter, have the following definitions and meanings:

"Developed property." A parcel or portion of real property on which an improvement exists. Improvement on developed property includes, but is not limited to, buildings, parking lots, and outside storage.

"Gross square footage." The calculated area of all structures, located on a site, measured along the exterior walls of such structures, including but not limited to enclosed courtyards, stairwells, and square footage on each level of multi-story structures, but not including fences and parking areas which are not enclosed within a building.

"ITE Manual." Institute of Transportation Engineers Trip Generation Manual.

"Multi-family residential." Property for residential use consisting of three or more dwelling units. For purposes of this chapter, condominiums and individual mobile home units in a mobile home park are also classified as multi-family residences.

"Non-residential." A use of property which is primarily not for personal, domestic accommodation.

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"Pavement condition index (PCI)." A uniform way to measure pavement distress with a rating scale from 1 to 100, with higher values indicating better condition.

"Single-family residential." A dwelling unit which is occupied by one or more persons of which there shall be only one dwelling unit per lot and which provides complete, independent living facilities for one or more persons including, but not limited to, permanent provisions for living, sleeping, eating, cooking and sanitation. Two dwelling units and accessory dwelling units shall be considered as part of a single-family residence.

"Street or road." A public road or right-of-way within the city, which is under the jurisdiction or control of the city. For purposes of this chapter, county, state and federal roads are excluded.

"Truck." A multi-axel motor vehicle having six or more tires in contact with the pavement surface.

(Ord. No. 1325, § 1, 5-6-2009)

### **13.40.040 Regulatory program.**

1. There is hereby created a road maintenance regulatory program for the purpose of maintaining a safe, functioning city street maintenance system.
2. A road maintenance program is hereby established. Revenues collected pursuant to this chapter shall be dedicated to the road maintenance program and used exclusively to fund a road maintenance program to provide for a safe, functioning street system. In the event that road maintenance fees collected are insufficient to maintain city streets, additional funding may be allocated by the city council from other non-dedicated city funds provided, however, the city council may direct the reimbursement to such other fund if additional road maintenance fees are collected.

(Ord. No. 1325, § 1, 5-6-2009)

### **13.40.050 Administrative policies.**

1. The use of the city's streets and roads involves a complex mixture of interdependent uses between categories of residentially developed property and non-residentially developed property. The blending makes exact calculations difficult, but the most reasonable apportionment is approximately fifty (50) percent use attributable to residential development and approximately fifty (50) percent use to non-residential development. In keeping with this division, approximately fifty (50) percent of the total revenues needed to be generated by the road maintenance program fee on an annualized basis shall come from residential developments and approximately fifty (50) percent shall come from non-residential developments.
2. To avoid significant fluctuation in billing fees, road maintenance program fees shall be an average annualized revenue requirement based on a five-year estimate of road maintenance/reconstruction needs, as determined by the public works director with approval of the city council.
3. The city manager is authorized and directed to review the operation of this chapter and where appropriate, recommend changes in the form of administrative procedures for adoption by the city council by resolution. Such procedures, if adopted by the city council, shall be given full force and effect, and unless clearly inconsistent with this chapter, shall apply uniformly throughout the city.
4. The initial road maintenance fee shall not be increased for the first three years of the maintenance program. During the third year and every three years thereafter, the city manager, public works director and the finance director will meet for the purpose of reviewing the road maintenance fee. Any proposed changes to the fee structure will be presented to the city council for consideration and approval. The review shall occur sooner than the third year in the event the city receives substantial new sources of funds from federal, state, regional, or county programs earmarked for street system maintenance/improvements.

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5. The provisions of this chapter may be appealed by writ of review within sixty (60) days of its effective date. The amount of a road maintenance fee may be appealed in accordance with the criteria and procedures specified in this chapter.

(Ord. No. 1325, § 1, 5-6-2009)

### **13.40.060 Road maintenance user fee.**

1. A road maintenance fee is hereby established and shall be assessed to street users as defined herein by the development category and classification. A request for water or sewer service will automatically initiate appropriate billing for the road maintenance fee. Billing shall be as a line item on the city's water/sewer utility bill.
2. Undeveloped properties shall not be charged a road maintenance fee.
3. Each residential developed property within the city limits will be designated to one of two billing categories: single-family dwelling unit or multi-family dwelling unit. The road maintenance fee for a single-family dwelling unit shall be greater than the corresponding fee for a multi-family dwelling unit. The fee difference shall be proportionate to trip generation rates as established in the ITE Manual.
4. Each non-residential developed property within the city limits shall be assigned to a billing category based on the following three factors associated with road usage: "Intensity" of vehicle trips generated per one thousand (1,000) (gross) square feet of developed area, or equivalent. Statistical data from the ITE Manual is to be used to establish levels of intensity, and "magnitude" of development as measured by gross square feet of developed area, or equivalent. "Trucks" per day serving the development.
5. The methodology for classification of the categories of residential and non-residential developed property, the fair apportionment to each classification, and the amount of the road maintenance fee shall be initially established by city council resolution. Changes shall also be adopted by resolution.

(Ord. No. 1325, § 1, 5-6-2009)

### **13.40.070 Appeal procedure.**

1. Any owner who disputes any interpretation given by the city as to the category of use assigned to such owner's property pursuant to this chapter may request a review and appeal of such interpretation, but only in accordance with this section. The dispute must first be presented in writing to the public works director for review and thereafter may be appealed to the city council in accordance with this section. Failure to appeal an interpretation made under this chapter within the time and in the manner provided below shall be sufficient cause to deny the relief requested. Disputes which result in changes in the street maintenance fee charged under this chapter shall become effective with the next billing cycle.
2. A utility customer may request a review of the category of use assigned. A written request for review must be submitted within fourteen (14) days of the new assignment or fourteen (14) days after a change in category has been made by the city. The public works director shall conduct the review, considering all relevant evidence presented by the customer related to their actual trip generation patterns. Such evidence may include business records, parking lot usage, square footage of building, and traffic studies completed by the property owner. The public works director shall make a determination to approve or deny the request to reassign the category of use based on the evidence provided and must provide written notice to the customer.
3. A customer who wishes to dispute an interpretation made by the public works director as to the assigned category of use under this chapter shall submit a written appeal to the city manager's office within ten (10) business days from the date of notice from the public works director's determination under paragraph [2](#) of this section, together with a filing fee in the amount established by the city council resolution. The application for appeal shall specify the reasons and include an engineering

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study prepared by a license professional engineer in conformance with the methodology outlined in the ITE Manual. Appeals shall be limited to the issue of whether the appropriate category of use has been assigned to the property.

4. The city manager shall schedule the matter for city council review and notify the appellant no less than ten (10) business days prior to the date of such city council review. The city council shall conduct a hearing during a public meeting and determine whether there is substantial evidence in the record to support the interpretation given by the public works director. The city council may continue the hearing for purposes of gathering additional information. The city council shall make a tentative oral decision and shall adopt a final written decision together with appropriate category of use. The decision of the city council with respect of the category of use shall be limited to whether the appellant has been assigned to the appropriate category of use. If the city council should determine that a different category of use should be assigned, it shall so order. No refund of prior road maintenance fees shall be given. Only where the city council decision results in a change in category of use will the filing fee on the appeal be refunded. The city council decision shall be final.

(Ord. No. 1325, § 1, 5-6-2009)

### **13.40.080 Enforcement.**

1. In the event funds received from city utility billings are inadequate to satisfy in full all of the water, sewer, streetlight, and road maintenance fees, credit shall be applied proportionately.
2. In addition to other lawful enforcement procedures, the city may enforce the collection of charges required by this chapter by withholding delivery of water to any premises where road maintenance fees are delinquent or unpaid.
3. Notwithstanding any provision herein to the contrary, the city may institute any necessary legal proceedings to enforce the provisions of this chapter, including, but not limited to injunctive relief and collection of charges owing. The city's enforcement rights shall be cumulative.

(Ord. No. 1325, § 1, 5-6-2009)

### **13.40.090 Severability.**

1. In the event any section, subsection, paragraph, sentence or phrase of this chapter or any administrative policy adopted herein is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the chapter shall continue to be effective.
2. Nothing contained herein shall be construed as limiting the city's authority to levy special assessments in connection with public improvements pursuant to applicable law.
3. The fees and charges herein are not intended to be taxes, nor are they subject to the property tax limitations of Article XI, Section 11(b), of the Oregon Constitution.

(Ord. No. 1325, § 1, 5-6-2009)