

CITY OF NEWPORT

ORDINANCE NO. 2224

**AN ORDINANCE AMENDING CHAPTERS 5.10, 5.15, AND 5.20
OF TITLE V OF THE NEWPORT MUNICIPAL CODE
RELATING TO WATER, SEWER, AND STORMWATER UTILITIES**

WHEREAS, the Newport City Council and City staff have reviewed Chapters 5.10, 5.15, and 5.20 of the Newport Municipal Code over the course of the past year with internal staff meetings and through council work sessions; and

WHEREAS, through this effort, the amendments to Chapters 5.10, 5.15, and 5.20 have been developed to update utility billing and other practices/procedures, and to make utility services more customer/user friendly to the extent practicable, while also balancing suitable processes for administrative function of utility services; and

WHEREAS, in order for the amendments to Chapters 5.10, 5.15, and 5.20 to coincide and align with the start of fiscal year 2024-2025 for purposes of implementation, the City Council determines that emergency adoption of this ordinance with an effective date of July 1, 2024 is appropriate.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The findings set forth above are incorporated in support of the amendments to Chapters 5.10, 5.15, and 5.20 of the Newport Municipal Code adopted by section 2 of this ordinance.

Section 2. Chapters 5.10, 5.15, and 5.20 of Title V of the Newport Municipal Code are hereby amended as set forth in the attached Exhibit A.

Section 3. This ordinance shall become effective on July 1, 2024 to coincide and align with the start of fiscal year 2024-2025.

Adopted by the Newport City Council on June 17, 2024.

Signed by the Mayor on June 17, 2024.



Jan Kaplan, Mayor

ATTEST:



Erik Glover, Asst. City Manager/City Recorder

(Deleted language is shown in ~~strikethrough~~ and language to be added is depicted with underline)

CHAPTER 5.10 WATER

5.10.010 Definitions

The following definitions apply in this chapter.

A. Applicant. A person, corporation, association, or agency applying for water service.

B. Base or Flat Rate Fees. Fees for every water account with a meter installed regardless of whether water is used, the account is off for nonpayment, the water is off as a courtesy to customer, no one is residing at the service location, or the location is scheduled for demolition.

C. Billing. A bill that includes charges for utility service under this chapter and Chapters 5.15 and 5.20, when applicable, and may include other fees and penalties established by the City Council.

~~BD.~~ City Service Line. The water line between a main and a water meter.

~~CE.~~ Customer. A person receiving water service from the city. Upon approval of an applicant's application, the applicant becomes a customer.

~~DF.~~ Fire Protection Service. Provision of water to premises for automatic fire protection.

~~EG.~~ Mains. Water distribution pipelines owned by the city used to serve the general public.

H. Meter Installation Fees. Fees for meter installation only. All meters remain the property of City.

~~FJ.~~ Premises. Buildings or other property operated as a separate unit from other property.

~~IJ.~~ Private Service Line. The water line between the water meter and the premises. For unmetered lines for fire protection service, the private service line is the line between the connection with the main and the fire

suppression sprinkler.

(Chapter 5.10.010(G.) amended by Ordinance No. 1975, adopted on March 2, 2009, and effective on April 1, 2009.)

HK. Service Connection. 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 private service line.

5.10.020 Establishment of Water Service

A. **New Water Service.** Applicants requesting service in a location not previously served or a change in the size of an existing service, or due to a change in ownership or tenant/occupant of the property to be served, shall submit a written application for water service on a ~~city~~ form furnished by the finance department, as approved by the finance director, and pay a fee and a deposit. The application shall include at least the following information:

1. The date of application.
2. The location of premises to be served.
3. The date on which applicant will be ready for services.
4. Whether the property previously has had city water service.
5. The purpose for which the service is to be used.
6. The size of the service.
7. The address to which bills are to be mailed or delivered.
8. An agreement to comply with city rules and regulations.
9. A guarantee by the property owner of payment for all charges for water service and an agreement that delinquent water bills shall become a lien against the property to which service will be provided, in accordance with state law and policies and procedures adopted by the city manager.
10. The signature of the property owner or authorized agent.

11. A property owner or authorized agent may authorize that utility charges be billed directly to a tenant or management firm on the application for service. These instructions will remain in place until cancelation is made in writing and acknowledged by City. Property owners are to notify the City in writing within twenty-four (24) hours of any change in customer billing.

12. If an application is not properly completed and filed with the City and all deposits and fees paid within five (5) days of establishment of a new service account, the account may be terminated and water disconnected to the premises.

The city may require amendments to the proposed service, including a different meter size to meet city standards.

AB. Change of Service. Applicants requesting water service in a location where there is an existing connection to the city water system shall submit a written application and deposit before service is provided.

BC. Temporary Service. Applicants requesting temporary water service for construction or other purposes shall submit a written application and deposit before water services is provided. All temporary water service will be metered.

D. Non-Property Owner. Service may be transferred to a non-property owner account holder or authorized agent only with an approved transfer of service agreement submitted by the property owner. Rules and regulations established by the City for utility service shall be part of the transfer of service agreement, which are subject to change in accordance with policies and procedures adopted by the city manager.

E. Appeal. An applicant or account holder may appeal the denial or termination of service as provided under Section 5.10.160 (D)(4).

5.10.030 Deposits

A. Upon the permanent discontinuance of water service by a customer, the deposit, less any unpaid fees, interest, or penalties, shall be refunded to the depositor. The city

water utility, at its option, may refund a deposit at any time after a customer's credit has been established.

- B. A nonrefundable change of account fee and a deposit are required to establish a new account. The change of account fee is required on all accounts regardless if the water is on or off or if the account was previously in a customer's name.
- C. A deposit can be waived by the finance director if a customer has an existing account in good standing that can be transferred to new account, or if an applicant requesting a new account has all existing accounts in good standing.
- D. A deposit can be refunded if the account reflects at least twelve (12) consecutive months of on-time payments with no late notices or disconnections. All deposits approved for refund will only be applied to the account without interest. A new deposit will be required if the account is later shutoff for nonpayment.

5.10.040 Type, Location, and Arrangement of Water Service

- A. **Location of Service Line and Meter.** The location of the city service line and meter shall be at the discretion of the city. If a customer requests that a city service line and meter be installed at a location other than proposed by the city and there is an additional expense involved, the customer must pay the regular connection fee plus the additional expenses to have the city service line and meter installed at the preferred location. The meter will normally be placed at the edge of the public right-of-way or easement. If a meter is to be installed on private property, the owner will grant an easement for maintenance and repair of the line and for reading the meter. In such cases, access to the meter must remain unobstructed.
- B. **Number of Services to Separate Premises.** Separate premises will normally each be supplied through individual meters, except where a private water system serves a location such as a mobile home park or campground. However, a single building with multiple residential units or separate businesses may be served by a single service connection and meter, provided that an applicant or customer assumes responsibility for payment of charges for all water furnished to combined units.

C. **Fire Protection Service.** Non-metered fire protection connections will be allowed inside and outside of buildings under the following conditions:

1. The owner submits an application and pays the required fee.
2. The owner provides and maintains an approved service meter. The city shall install the city service line and meter. The meter requirement may be waived if the fire protection service is constructed or monitored to prevent use other than for extinguishing a fire and the owner agrees in writing that the fire protection system will not be used for other purposes. The city may rescind the waiver if the system is used or altered so that it may be used other than for extinguishing fires.
3. An appropriate backflow prevention device is installed to separate the fire protection system.
4. No charge will be made for water used in the extinguishing of fires if the owner or agent reports the use to the city water utility in writing within 10 days.
5. The city shall collect a standby fee for a separate connection for fire protection service. Combined systems will pay the regular fees.

D. **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 and an approved means of measurement is available. The rates for general use will apply.

5.10.050 Damage to City Facilities

Permanent and temporary customers shall use all possible care to prevent damage to the meter or to any other facilities of the city. If the meter or other facilities are damaged by the customer or customer's contractor, the customer shall pay the cost of repairs.

5.10.060 Discontinuance of Water Service

A. ~~A customer may discontinue water service at any time by notifying the city in writing, by phone, or in person. The~~

~~customer remains responsible for all water service provided until the shut-off date or until the city initiates service to a new customer. A customer shall notify the City in advance of the date service is to be discontinued and transferred into a new customer's name. The customer shall pay all utility charges until the date of such discontinuance. If notice is not given, the customer will be required to pay for service until the date the City learned the customer vacated the premises. Final bills will be calculated, any customer deposits applied, and then mailed to the last known address of the customer. Final bills are due and payable upon receipt. If a forwarding address for the customer is unknown, the final bill must be paid by the property owner of the customer account before a new water service account can be established. Final bills of tenants which remain unpaid twenty (20) days after the final billing date shall be transferred to the property owner of the customer account for payment, in accordance with state law. The City may not disconnect water service to the premises if an account has been established with a subsequent tenant, except as provided under state law.~~

- B. Water service may be reestablished after discontinuance under the provisions of [Section 5.10.020BA](#).
- C. A property owner may, by standing order as part of a transfer of service agreement, arrange to have water service remain on, reverting to owner's account, after a tenant discontinues service until such time a new tenant enrolls for service.
- D. Water service to a property is continuous and base rate fees are billed unless the meter to the property is removed or water service is discontinued, at which time stormwater fees may continue to be billed in accordance with Chapter 5.20. A customer may request that water service be transferred from their name if they are no longer the tenant or owner of the property by notifying the city in writing. The customer remains responsible for all water service provided until the City initiates service to a new customer.

5.10.070 Notice

- A. **Notices to Customers.** ~~Notice to a customer will normally be given in writing and may be either delivered or mailed to the address to which his service is rendered or at any other address provided by the customer. Notices required~~

to be given by the City to a customer will be given in writing and, depending on the type of notice, mailed first-class to the last known billing address of record, placed on the front door of the property, or personally delivered to the customer.

- B. **Notices from Customers.** ~~Notice from the customer to the city water utility shall be in writing, by phone, or in person. The city may require written confirmation of any oral notice. Except as otherwise provided in this chapter, notices from the customer to the City shall be given by the customer or their authorized representative in writing to the finance director, and within thirty (30) days of any account changes.~~

5.10.080 Repair and Maintenance Responsibilities

- A. **Customer Responsibility.** Every customer shall maintain the private service line and all other pipes, fittings, and fixtures from the customer side of the water meter to and in the premises in proper order and free from leakage or waste. The city may discontinue service if water is wastefully or negligently used to the extent that general service is affected. The city shall give four days notice before discontinuing service for waste. If a city employee notices an obvious water leak/pipe break, in order to prevent damage or water waste, he/she may shutoff the water without notice. Nothing in this section precludes a temporary shutoff by mutual agreement of the city and customer.
- B. **Responsibility for Damage to City Facilities.** The city shall maintain and repair all city-owned portions of the system. When a properly located city pipe or facility is damaged or destroyed by contractors or others, the person, contractor, or company responsible for such damage or destruction shall pay the city for the cost of repairing or replacing the facilities on the basis of the cost to the city in labor and in material plus 15 per cent for overhead expenses. A pipe or other facility will be deemed to be properly located if the person damaging the pipe or facility has not asked the city or the utilities notification center to locate facilities in the area.

5.10.090 Use of Water

- A. Sale or Conveyance Beyond Property Served. Except where it forms part of a manufactured product, no water shall be sold or conveyed beyond the premises served without permission of the city.
- B. Shutoff. The customer shall install a suitable valve or other device on the customer side of the meter capable of shutting off all water to the premises.
- C. Operation of City Valve by Customer Prohibited. The operation of the valve on the city service line by persons other than the city and its agents is not permitted.
- D. Abatement of Noises and Pressure Surges.
 - 1. No apparatus, fitting, or fixture shall be connected, allowed to remain connected, or operated in a manner that will cause noises, pressure surges, or other disturbances that may result in annoyance or damage to other customers or to the water works system.
 - 2. The city may give notice to the customer to correct a fault described in subsection D.1.
 - 3. If the customer fails to comply with the notice within the time specified in the notice, the city may shutoff water service until the fault has been corrected.

5.10.100 Cross-Connections

- A. No physical connection, direct or indirect, is permitted between the city water supply and a private or auxiliary water supply without the installation of an approved backflow prevention device.
- B. No physical connection, direct or indirect, is permitted between the city water supply system and any facility or property containing any of the following unless an approved backflow prevention device is installed and functional:
 - 1. Any farm or any property with stables for livestock.
 - 2. Beverage bottling plant.

3. Any facility using significant amounts of chemicals or hazardous materials or that has piping for conveying liquid under pressure in close proximity to potable water piping, including car washes, chemical plants, commercial laundries and dry cleaners, film processors, medical centers, laboratories, metal plating industries, mortuaries with embalming facilities, petroleum processing or bulk storage, facilities where water is treated by the addition of chemicals (including irrigation systems that have chemicals added), radioactive material processing, nuclear reactors.
4. Property using reclaimed water.
5. Piers and docks.
6. Wastewater treatment plants, wastewater pumping stations.
7. Permanent lawn irrigation systems or any other location where water supply fixtures are connected without an air gap to a facility that contains standing water.
8. Any other property if the city engineer determines there is a risk of contamination of the city water system, or any portion of it.

An "approved backflow prevention device" is a device appropriate to the particular situation. The city engineer shall have discretion, using professional judgment and relying on published standards, to determine which types of backflow prevention devices may be approved for particular situations. The city engineer may adopt guidelines or regulations addressing technical requirements for backflow prevention devices.

- C. The city shall shutoff city water service if a functional backflow prevention device is required and not present. The city shall normally provide notice of the need for a backflow prevention device and provide a reasonable opportunity (not to exceed 30 days) to install an approved functioning backflow prevention device, but may disconnect water service when there is a substantial risk of contamination of any portion of the city's water system. Discontinued service shall not be re-established until satisfactory proof is furnished that the cross-connection

has been completely and permanently severed or that an approved backflow prevention device has been installed by a licensed plumber and is functional.

- D. All backflow prevention devices shall be inspected by the city at the time of installation and before use. All backflow prevention devices shall be tested after installation, any repairs, relocation or replacement, and, at a minimum, annually. The city may require testing at other times if the city determines there is a higher than normal risk of contamination.
- E. The city will establish a program for testing backflow devices for water services that have a lawn irrigation system. The city shall charge a monthly fee in an amount to be set by council resolution for water services that have a lawn irrigation system. The city may, by council resolution, expand its backflow testing to include the testing of backflow devices in other situations, and shall charge a fee set by council resolution for any category of water service added to the testing program. The city is not responsible for the cost of testing backflow devices other than those for water services that have a lawn irrigation system or for other types of services added to the testing program by the city.
- F. The water service customer and any property owner or other person in charge of property shall immediately advise the city of any known failure or problem with a backflow prevention device and of any known backflow into the city's water system.
- G. Only backflow prevention devices approved by the city engineer may be installed, but existing backflow prevention devices may remain in place as long as they remain functional. Maintenance and repairs are allowed on existing devices, so long as the repaired device is functional.
- H. Tampering with or bypassing a required backflow prevention device without the approval of the city engineer is a civil infraction. Failing to report a known backflow is a civil infraction.

(Chapter 5.10.100 was amended by Ordinance No. 1975, adopted on March 2, 2009; effective April 1, 2009.)

5.10.110 Water Use Restrictions

Restrictions on use of water authorized by this section may include prohibitions or limitations on watering lawns or gardens, prohibitions or limitations on washing vehicles other than at facilities that recycle water, or other restrictions or limitations the city determines to be appropriate. Restrictions may be geographically limited or citywide, and may involve cyclical restrictions.

- A. **Council-Imposed Restrictions.** The City Council may impose or modify restrictions on the use of water obtained from the city.
- B. **City Manager-Imposed Restrictions.** The city manager may impose temporary restrictions on water use, for a period of up to 48 hours, pending Council action to adopt restrictions.
- C. **Notice.** Notice of any water use restriction is deemed sufficient if announced on at least one local radio station or published in a local newspaper. The city shall endeavor to provide as much notice as possible through all local media, including publication at the earliest possible time in a local newspaper.
- D. **Violation.** It shall be unlawful for any person to use water in contravention of the restrictions authorized by this section.

5.10.120 Tampering with City Water Facilities

A. **Tampering with Water System.** No person shall tamper or interfere with the city's water system; nor shall any person, 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.

B. It is illegal to tamper with a water meter. If utility service to a delinquent account has been turned off, and the property owner, occupant, or other unauthorized person turns the meter back on, or otherwise tampers with the meter whether the account is delinquent or not, a tamper fee shall be added to the account. This fee shall not prevent nor replace regular charges for the services used, nor preclude judicial remedies or criminal or civil sanctions. Furthermore, water service will be turned back off and

service will not be restored until the customer account, including any tamper fee billed, is paid in full.

BC. Liability for Damage. The customer shall be liable for any damage to a meter or other equipment or city property caused by an act of the customer or the customer's tenants or agents.

5.10.130 Water Supply and Facilities

- A. No Liability Relating To Water Pressure, Supply or Quality. The city furnishes the quantities and pressures available. The service is subject to shutdowns and variations required by the operation of the system. The city is not responsible for loss or damage relating to the quantity, quality of the water supplied to its customers or for the amount of water pressure. The city may change operating water pressure, shutoff water, interrupt water service or change the quality of water supplied at any time without notice.
- B. Customer Storage and Filtering. Customers depending on a continuous and uninterrupted supply of water or having processes or equipment that require particularly clear or pure water shall provide 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.
- C. 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 the removal or relocation. The City Council may refuse to permit the removal or relocation of facilities if fire protection or the operation or control of any portion of the city water system or other public or private facilities would be adversely affected.
- D. Work Done "At Cost." Any person having work done "at cost" by the city may select one of the following alternatives:
 - 1. Cost. Cost includes the amount expended by the city for gross wages and salaries, employees' fringe benefits (including a pro-rata share of vacation,

holiday, sick, break, clean-up, and training times), materials, equipment rentals at rates paid by the city or set by the city for its own equipment, or any other expenditures incurred in doing the work, plus 10 per cent to cover administrative expenses. The city 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, and any surplus shall be refunded.

2. Fixed Price. Installation of new services equal to or less than one inch in diameter, a fixed price will be charged. For larger services and other work done by the city, at the request of the owner or agent, the city will calculate a fixed price based on the estimated cost. The full amount of the fixed price must be paid in advance. Where a price has been fixed, no refund will be made by the city water utility, and no additional cost will be charged to the customer.
- E. Changes in Customers' Equipment. If excessive flow or consumption overloads the capacity of a meter, the city may require the customer to install a larger capacity meter. The customer shall provide an estimate of his flow requirement and other pertinent data to the city, which shall determine the minimum meter size. The installation of an adequate meter and service line shall be at the cost of the customer. If the customer fails to apply for a larger meter and connection within 30 days of notice from the city of the minimum meter size required, the city may either proceed with the work and charge the full cost to the owner or may discontinue service.

5.10.140 Discontinuance of Service

- A. **Unsafe Apparatus.** The city 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.
- B. **Service Detrimental to Others.** The city may refuse to furnish water and may discontinue service to any premises where excessive demands by one customer will result in inadequate service to others

- C. **Connecting to the City Water System without Authority.** No person may connect to the city water system except as authorized in this chapter. If a person other than a city employee or agent opens the valve on the city service line, the city shall impose a penalty on the customer and the city may shutoff the water supply at the main, remove the meter, or both.
- D. **Restoration of Service.** Service may be restored after being discontinued under this section only if the reason for the discontinuance has been resolved and any required fees paid.

5.10.150 Extension of Mains

Any property benefited by an extension of a main shall pay cost of installation of the main, including the cost of valves, fittings, and fire hydrants. An extension that benefits a single property shall be paid for by the owner of that property. An extension that benefits more than one property shall be paid through a local improvement district, a reimbursement district, or other means accepted by the city. The city may participate in the cost of extension of a main to the extent that the extension provides a benefit to the system and not just to a small number of properties. The city shall have the absolute right to determine the size and all other matters in relation to main extensions. Construction of mains shall be done by the city or under direct supervision of the city.

5.10.151 Oversized Mains

The city may require a main extension to be larger than the minimum pipe size required for the benefited property owner. In such case, the city shall pay or reimburse the owner for the increased cost of materials and labor for the oversized main and fittings.

5.10.160 Billing

- A. **Meter Reading.** Meters will be read at regular intervals for the preparation of monthly bills and as required for the preparation of opening, **and closing accounts**, and special bills. The city 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. **Regular Billing.** Bills for water service will ordinarily be issued monthly. The city may:

1. Read meters and issue bills for periods other than one month.
2. Issue bills on an estimated consumption basis.
3. Include with the billing a bill for any obligation due the city.
4. Require the customer to pay an amount sufficient to bring the customer's total deposit to the amount required.

C. **Billing for a Fractional Month.** The ~~base or flat or base~~ rate portion of any fractional month shall be prorated.

D. **Time of Payment; Delinquency.**

1. All bills for water service are due and payable ~~as of~~ within 15 days of the date of mailing or delivery, and will be deemed late if not paid within that time period. An account is delinquent if any uncontested portion of a bill is not paid within ~~15~~ 30 days of the date of mailing or delivery of the bill.
2. The finance director or designee shall have the authority to waive utility charges up to \$500. Such waiver must be made based upon a written request from the customer and for good cause. Good cause may include, but is not limited to, correction of account information, failure of the City to send a bill, correction of measurement of either fixture units or equivalent service units, and adjustments to the time in which a customer established an account. Waivers may include returned check charges, disconnection charges, or utility charges.
3. The city manager or designee shall have the authority to waive utility charges up to \$10,000, with waivers above this amount to be approved by the City Council. Such waiver must be made based upon a written request from the customer and for good cause. The city manager shall receive a written report of findings from staff and then weigh the evidence presented by the customer and the staff before making any such waiver.

24. Appeal. A customer may contest all or part of a utility bill by filing a written objection with the finance department. The objection must provide reasons why the amount billed is erroneous or should be adjusted. The finance department shall review the objection to determine whether the bill should be adjusted, including reduction or avoidance of charges, and notify the customer of the decision and appeal rights and procedures by first class mail. If no written appeal detailing the reasons for the appeal is filed with the city manager within 10 days from the date of mailing of the decision, the decision will be final. The city manager shall consider any timely filed appeal and provide a written decision to the customer and finance department. The decision of the city manager shall be final. A person responsible for payment has the rights of a customer under this section. An account is delinquent if the amount stated in a final decision is not paid within 10 days of mailing the final decision.

E. Notice of Delinquency and Shutoff

1. ~~The city may send a past due notice to all customers who have not paid in full within 15 days of billing. The past due notice shall state the overdue amount and the amount of delinquent fees. The past due notice shall provide a deadline for payment or for making acceptable written payment arrangements. An account with a balance that remains unpaid for thirty (30) days after issuance of the bill will have a past due notice mailed to the last known billing address of the account holder. The notice shall specify that the past due balance, including delinquent fees, must be paid in full within seven (7) days or utility service will be shutoff without further notice. The notice shall be sent to the property owner or authorized agent, and to the tenant, if applicable.~~
2. If payment arrangements are not made, or full payment of the past due balance, including delinquent fees, is not received as required in the past due notice, the city shall shutoff water service the next business day after the past due notice deadline for payment, and a shutoff fee will be charged. If payment arrangements are not kept according to the written payment arrangements made in response to the past due notice, service may

be terminated immediately without further notice.

(E.(1.) and (2.) above were adopted by Ordinance No. 1967, on November 17, 2008; effective December 17, 2008.)

3. The City may not provide service to a tenant if the tenant has a previous unpaid utility bill unless the City and tenant agree to a plan for repayment of unpaid utility bills, as provided under state law.
4. The finance director is authorized to enter into payment arrangements with delinquent customers, which shall not exceed the term of three (3) months, unless extended by the city manager. If the customer fails to comply with the terms of the agreement, then water service may be shutoff without additional notice, and not turned on again until the account is paid in full. Late fees and interest will continue to accrue even when there is a payment arrangement in place. No delinquent or shutoff fees will be incurred and water service will not be shutoff if the terms of the payment arrangement are met. Except as provided under state law, a tenant must obtain a written consent from the property owner to enter into a payment arrangement and the consent must be in the form provided by the City.
35. The City Council may by resolution establish delinquent fees to be charged on past due accounts under this chapter and Chapters 5.15 and 5.20.
46. Service shall be restored after a shutoff for nonpayment only after payment in full of all charges, fees and penalties owing by the customer. However, if the customer was a tenant and is no longer occupying the property, ~~service may be restored after payment of the charges for service only, with the former customer remaining responsible for unpaid late fees and penalties~~ the bill must be paid by the property owner before water service is restored, or a new account for water service at that location is established. For service that was shutoff for non-payment, water service will be restored only during normal business hours.
57. The city may send combined bills for water and other city utility services. If the payment received is less than the total amount owing, the amounts received will be credited first towards stormwater fees, then sanitary

~~sewer fees, then water service fees, the charges for all other services and credited last to payment for water service any late fees, delinquent fees, interest, or utility shutoff fees.~~

- F. **Final Bills.** If an account has been closed, the final billing shall reflect any deposit remaining on the account. If there is a net amount due, it shall be paid as provided in subsection D of this section. Any refund owing to the customer shall be paid by check included in the final bill.

5.10.170 Property Owner Responsibility

~~In the event that a non-property owner customer does not pay, the property owner shall be responsible for payment of water charges, provided however, that the property owner shall not be responsible for penalties, late fees, and delinquency charges incurred by the customer without the property owner's knowledge or approval. Property owners shall be responsible for requiring their tenants to inform them of the status of their accounts. A. The property owner shall be responsible for payment of utility charges, notwithstanding that tenants or other occupants may be required by the property owner to pay the charges. The City shall provide information to the property owner regarding the status of a tenant's account upon request, and shall send notices to the last address in the city records of the property owner or authorized agent, as well as the last address in the city records of any tenant when the customer account is in the tenant's name. If any tenant does not pay their bill, the bill will be transferred to the property owner, in accordance with state law.~~

~~B. Property owner responsibility for payment of utility charges shall include charges incurred by tenants or management firms, periods of vacancies between tenants or management firms, and periods in which the City was not notified of a change in occupancy.~~

5.10.180 Meter Testing and Error

A. **Testing 1.5 Inch and Larger Meters**

1. For 1.5 inch and larger meters, the city shall test meters in service at the request of a customer, provided that the customer pays a ~~deposit fee~~ reasonable amount cost to cover the cost of the test. The customer will

be notified not less than five days in advance of the time and place of the test. The customer representative shall have the right to be present in person or through a representative when the test is made. If the test reveals that the meter was inaccurate by more than 2%, the entire amount of the deposit will be refunded. If the test reveals that the meter was accurate, the city shall refund the difference between the deposit and the cost if the deposit exceeded the cost, or require payment of the difference if the cost exceeded the amount of the deposit.

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

2. If a 1.5-inch or larger meter is found to be registering more than 2 per cent fast under conditions of normal operation, the city will refund to the customer an amount calculated to reflect any overcharges for the previous three months, and replace the meter at the city's expense, if necessary.

B. **Testing Meters Smaller Than 1.5 Inches.** At the request of a customer, the city will field test a meter smaller than 1.5 inches, provided that the customer pays a fee to cover the cost of the test. If the city determines that the meter is inaccurate, the city will refund the fee for the test and replace the meter at the city's expense. If the city determines that the meter is accurate but the customer wishes a new meter, the city will install a new meter on payment by the customer of the cost of the meter installation.

C. **Non-functional Meters.** The city may bill the customer for water consumed while any 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 for Leaks.** Where a leak exists underground between the meter and the building, and the same is repaired, or scheduled to be repaired, within 10 days after

the owner, agent, or occupant of the premises has been notified or became aware of the leakage, the city may allow an adjustment ~~of 50 per cent of the estimated excess consumption in accordance with policies and procedures adopted by the city manager.~~

5.10.190 Billings of Separate Meters Not Combined

Each meter will be billed 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's operating convenience requires the use of more than one meter or of a battery of meters. The minimum monthly charge for such combined meters will be based on the diameter of the total combined discharge areas of the meters.

5.10.200 Fees and Charges

The City Council shall establish and may amend by resolution all charges, fees, deposit amounts, and penalties related to water utility service ~~by resolution and operation of the utility system under this chapter and Chapters 5.15 and 5.20.~~

5.10.210 Use of Payments Related to Water Service

All proceeds from charges, fees, and penalties relating to water service shall be used only for the establishment, operation, expansion, and maintenance of the city's water system. Nothing in this section prevents a loan from the city's water fund to other system funds, and the city may charge the water fund a reasonable amount for administrative services.

5.10.220 Violation - Penalty

A. The penalty for a violation of any provision of this chapter is a civil ~~penalty~~ infraction subject to a civil penalty not to exceed \$500.00. Each day on which a violation occurs or continues is a separate violation.

B. Violations that constitute a health hazard are nuisances and may be abated as nuisance or by any other legal means of eliminating the hazard.

5.10.230 Severability

In the event that any section, subsection, clause, word or other portion of this chapter is determined to be unconstitutional or otherwise invalid or unenforceable, all other provisions of this chapter shall remain in effect.

(Chapter 5.10 adopted by Ordinance No. 1920 on June 4, 2007; effective July 4, 2007.)

CHAPTER 5.15 SEWER SYSTEM AND CHARGES

5.15.010 Definitions

As used in this chapter:

- A. **Building Sewer** means the system that receives sewage inside the walls of the building and conveys it to the service lateral.
- B. **Collection Sewer** means a sewer to which one or more service laterals are tributary and which serves a local neighborhood.
- C. **Intercepting Sewer/Interceptor Sewer** means a sewer that receives sewage from a number of collection sewers or other sewage sources and conducts the sewage to a point for treatment or disposal. A "force main" is a type of intercepting sewer to which service laterals cannot be directly attached.
- D. **Natural Outlet** means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- E. **Sanitary Facility** means any drain from any sink, toilet, or other means of disposing of liquid waste by means of drains. A system of collecting liquid hazardous wastes for shipment to an appropriate disposal facility is not a sanitary facility.
- F. **Sanitary Sewer** means a pipe or conduit that carries sewage.
- G. **Service Lateral** means the extension from a building sewer to the collection sewer.
- H. **Sewage** means water-carried wastes from residences, business buildings, institutions, and industrial establishments and any liquid wastes.
- I. **Sewer System** means all city-owned facilities for collection, pumping, treating, and disposing of sewage.
- J. **Storm Drain** means a pipe or conduit that carries stormwaters and surface waters and drainage, but is not intended for sewage and polluted industrial wastes.

5.15.020 Connection Required

A. All structures containing sanitary facilities that are located within 250 feet of a collection sewer or intercepting sewer other than a force main must be connected to the sewer system. Connection to the public sewer system for new buildings or structures is required prior to the issuance of a certificate of occupancy. Any building served by a private sewage disposal system shall be connected to the city sewer system within 60 days of the date that a city sewer line is extended to within 250 feet of the property and is available for connection. At the request of the property owner of an existing structure, the City Council may allow deferral of the connection if connection would impose an undue hardship on the property owner. In determining what constitutes an undue hardship, the Council may consider the following factors:

1. Whether the property owner is contributing to the cost of extending the main.
2. The cost of connection.
3. The condition and capacity of the private sewage disposal system.

Deferral shall be allowed only if the existing structure is served by a private sewage disposal system in good condition and adequate to serve the sanitary facilities on the property. Council may require proof that the disposal system is properly and regularly maintained and pumped, and routinely inspected by the county. The Council's decision shall be by written order with findings. Any deferral allowed by the Council may be revoked by the Council at any time.

If sewer connection is deferred, the deferral is automatically revoked and sewer connection must occur within 30 days of:

1. Failure of the private sewage disposal system;
2. Failure of the private sewage disposal system to comply with all applicable state and county standards and requirements;
3. Sale of the property; or

4. Any determination by the state or county that the private sewage disposal system presents a health or environmental risk.

(Section 5.15.020(A.) amended by Ordinance No. 1981, adopted 7/6/09, effective August 5, 2009.)

- B. All private sewage disposal systems allowed by subsection A shall comply with all applicable state and county standards and requirements.
- C. No person shall discharge any sewage into any storm drain or natural drainage outlet.

5.15.030 Permit and Construction Requirements

- A. No person, firm, or corporation shall construct or reconstruct any sanitary or storm drains within the city on private property or in public ways without a city permit.
- B. Applications for permits to construct or reconstruct sanitary sewers or storm drains shall be made in writing on a city form and include the location of the property, the name of the owner, the name of the person or firm engaged to construct or reconstruct the proposed sanitary sewer or storm drain and such other information and plans as may be required by the city.
- C. The applicant upon approval of permit shall pay all applicable fees established by Council resolution. If excavation work in the public right-of-way is required, the applicant shall deposit a cash bond in the amount determined by the city.
- D. All costs and expenses incidental to the installation of the building sewer connection shall be borne by the applicant.
- E. A separate building sewer connection shall be provided for every building, unless otherwise authorized in writing by the city.
- F. Existing building sewers may be used in connection with new buildings only when they are found, on examination and tests, to meet all requirements.
- G. All design, construction and materials and repairs shall conform to the city's design and construction standards.

- H. Emergency repairs may be made without first obtaining a permit providing that the owner or his representative shall obtain a permit at the earliest possible time, by the end of the next normal business day.
- I. Sewer system users are responsible for all costs of service laterals and building sewers.

5.15.040 Power and Authority of Inspectors

- A. Duly authorized city employees shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, samplings and testing.
- B. It shall be the permittee or permittee's representative responsibility to request inspection of the work and to allow reasonable time for the city to schedule the inspection. Inspections shall be requested for and made during the normal business hours of the city. Should inspections be required during non-business hours, the permittee shall reimburse the city for all overtime costs incurred.

5.15.060 Discharge Regulations

- A. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, cooling water or unpolluted industrial process waters to any sanitary sewer. In the event the sewer system user fails to comply with any order requiring disconnection or it is impractical to require the disconnection of any storm drain from the sewer system, the sewer system user shall be required to pay a surcharge for the use of the system as established by Council resolution.
- B. Storm water and all other unpolluted drainage shall be discharged to storm drains, ditches, or natural storm drainage facilities or into drywells as approved by the city.
- C. Except as provided in this section, no person shall discharge or cause to be discharged any of the following waters or wastes to any public sewer:
 - 1. Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit;

2. Any water or waste which may contain more than one hundred parts per million, by weight, of fat, oil, or grease;
 3. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;
 4. Any garbage except organic wastes from a commercial source that have been shredded by a disposal system with a maximum 1.5 horsepower;
 5. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer system;
 6. Any waters or wastes having pH lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;
 7. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process or constitute a hazard in the receiving waters of the sewage treatment plant;
 8. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;
 9. Any noxious or malodorous gas or substance capable of creating a public nuisance;
 10. Any material from septic tanks or recreational vehicle holding tanks except at dump stations for that purpose operated or authorized by the city.
- D. Grease, oil, and sand interceptors shall be provided when necessary for the handling of those wastes; except that interceptors shall not be required for private living quarters. All interceptors shall be of a type and capacity approved by the city and shall be located so as to be easily cleaned and inspected. Where installed, all grease, oil and sand

interceptors shall be maintained by the sewer system users, at their expense, in continuously efficient operation. The city may inspect facilities at any time for proper operation and maintenance.

E. The admission into the sewer system of waters or wastes having:

1. A five-day Biochemical Oxygen Demand greater than 300 parts per million by weight, or
2. Containing more than 350 parts per million by weight of suspended solids, or
3. Containing any quantity of the substances described in Subsection C., or
4. Having an average daily flow greater than two percent of the average daily sewer flow of the city shall be subject to the review and approval of the city manager. The city may require pretreatment at the owner's expense and may establish a fee for acceptance of the wastes

~~EF~~. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any part of the sewer system.

~~FG~~. The public works director may adopt specifications and additional regulations consistent with city ordinances to carry out the purpose of this chapter. A copy of such additional material shall be maintained in the public works department.

5.15.065 Industrial Pretreatment

All non-domestic users of the city sewer system shall comply with industrial pretreatment standards of 40 CFR Chapter 1 Part 403.

5.15.070 Sewer Service Charges

A. Users of sanitary sewer service shall be charged fees established by resolution of the City Council. The amounts may be based in whole or in part on the amount of water consumed at the property. The Council may establish fees

for any service or impact on the system, including, but not limited to:

1. Application fees.
2. Connection fees.
3. Usage fees.
4. Inspection fees.
5. Fees for improper connection.
6. Fees for misuse of the system.
7. Disconnection fees.

B. When an industrial or commercial sewer system user will discharge sewage of unusual strength or character, the city reserves the right to reject the application for service, to require pretreatment of such waste, and/or require the sewer system user to pay additional charges as provided in this chapter.

C. Sewer users are responsible for payment for sewer services as follows:

1. The city shall prepare and mail billings for sanitary sewer services monthly. Billing shall be in the same manner as billings for water services, and shall be combined with the water and stormwater bills, if applicable. Deadlines for payment shall be the same as for water bills.

~~2. A delinquent fee in an amount established by Council resolution shall be added to all delinquent accounts.~~

~~3. The city shall charge a fee of ten percent per year on all accounts that remain delinquent for more than three months to cover interest and collection costs.~~

~~4. The finance director is authorized to determine what constitutes a de minimis account balance and to waive the penalties in paragraphs two and three of this subsection in de minimis or extenuating circumstances.~~

~~5. The city may require deposits prior to providing sanitary sewer service or in lieu of a deposit, obtain a signed agreement from the property owner, whether the user of the system or not, that the owner will be ultimately liable for the user charges.~~

~~6. In addition to other lawful remedies, the city may enforce the collection of charges authorized by this chapter by withholding delivery of water to any premises where the sanitary sewer service fees are delinquent or unpaid, following the procedures and standards for shutting off water service for non-payment of water bills. However, the city shall not deny or shut off water service to any subsequent tenant based upon an unpaid claim for services furnished to a previous tenant who has vacated the premises.~~

5.15.080 Violation – Penalty

- A. A violation of any provision of this chapter is a civil infraction subject to a civil penalty ~~of up to five hundred dollars~~ not to exceed \$500.00. Each day on which a violation occurs or continues ~~shall be considered is~~ a separate violation.
- B. Violations that constitute a health hazard are nuisances and may be abated as nuisance or by any other legal means of eliminating the hazard.

(Chapter 5.15 adopted by Ordinance No. 1949 on February 19, 2008; effective March 20, 2008)

CHAPTER 5.20 STORMWATER DRAINAGE UTILITY

5.20.010 Purpose

The city finds that absent effective maintenance, operation, regulation, and control, existing stormwater drainage conditions in all drainage basins and sub-basins within the city constitute a potential hazard to the health, safety and general welfare of the city. The City Council further finds that natural and man-made stormwater facilities and conveyances together constitute a stormwater system and that the effective regulation and control of stormwater can best be accomplished through formation, by the city, of a stormwater utility.

5.20.020 Definitions

- A. Equivalent Service or Surface Unit (ESU) means a configuration of development or impervious surface estimated to contribute an amount of runoff to the city's stormwater system that is approximately equal to that created by the average developed single-family residence. One ESU is equal to 2,700 square feet of impervious surface area. All single family residences will be deemed to be one ESU, regardless of impervious surface area.
- B. Impervious Surface means an artificially created hard-surfaced area that either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions. Impervious surfaces may include, but are not limited to, rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots or storage areas, trafficked gravel, and oiled, macadam or other surfaces which similarly impede the natural infiltration or runoff of stormwater. However, not all driveways or concrete are impervious, and the city will determine whether a particular surface is impervious.
- C. Improved Premises means any area that the public works director determines has been altered such that the runoff from the site is greater than that which could historically have been expected. "Improved premises" do not include public roads under the jurisdiction of the city, county, state or federal government.

- D. On-Site Mitigation Control System means a stormwater drainage facility that the public works director has determined prevents the discharge or substantially reduces or slows the discharge of stormwater into a receiving water or public stormwater system facility.
- E. Person Responsible means the occupant, lessee, tenant, contract purchaser, owner, agent or other person having possession of property, or if no person is in possession, then the person in control of the use of the property, or in control of the supervision of development on the property.
- F. Stormwater means water from precipitation, surface, or subterranean water from any source, drainage and nonseptic waste water.
- G. Stormwater System means any structure or configuration of ground that is used or by its location becomes a place where stormwater flows or is accumulated, including but not limited to pipes, sewers, curbs, gutters, manholes, catchbasins, ponds, creeks, open drainageways, ditches and their appurtenances. "Stormwater system" does not include the Yaquina River, Yaquina Bay, or the Pacific Ocean.
 - 1. City Stormwater System means the portions of the stormwater system in public rights of way, within easements in favor of the city, or on city property.
 - 2. Private Stormwater Facility means any portion of the stormwater system on private property and not within an easement in favor of the city.
- H. Stormwater Service means the operations of the city's stormwater utility in providing programs and facilities for maintaining, improving, regulating, collecting, and managing stormwater quantity and quality within the city's service area.

5.20.030 Provision of Service

Except as otherwise provided in this chapter, the city provides stormwater services to all properties within the city that have impervious surfaces that result in discharge or runoff into the city stormwater system.

5.20.040 Charges for Stormwater Service

- A. Unless another person responsible has agreed in writing to pay for stormwater service and a copy of that writing is filed with the city, the person receiving the city's water bill shall pay the stormwater charges as set by City Council resolution. The fee shall be based on ESUs. If there is no water service to the property or if water service is discontinued and the property is an improved premises, the stormwater charges shall be paid by the person responsible for the property. The person required to pay the charge is hereafter referred to as the "customer."
- B. The City Council may, by resolution, establish fees and charges necessary to provide and operate a stormwater system and service.
- C. A customer may request a reduction of the stormwater service charge. The service charge will be reduced in relation to the customer's ability to demonstrate that an on-site mitigation control system limits stormwater discharges or improve the water quality of discharges. Any reduction given shall continue until the condition of the property is changed or until the public works director determines the property no longer qualifies for the credit given. Upon change in the condition of the property, another application may be made by a responsible person.
- D. A customer may request waiver of the service charge. A waiver will be granted if the customer demonstrates that there will be no effective discharge to the city stormwater system beyond that which would occur in the property's natural state. The customer must demonstrate through hydrologic/hydraulic analysis that the site receives no stormwater service from the city stormwater system; and proof that any stormwater facilities are constructed and maintained to city standards.
- E. For the purposes of this chapter, dry wells are not an on-site mitigation control system eligible for service charge reduction or service charge avoidance because of the potential water quality impact that dry wells may have on the city's ground water resources.

5.20.050 Stormwater Charges – Billing

- A. Charges for stormwater service supplied by the city to any customer shall be charged for and billed to each such customer in accordance with rates established by Council resolution. The Council shall hold a public hearing before the initial adoption of a rate, and shall publish notice in a newspaper of general circulation in the city at least 30 days before the adoption.
- B. The customer shall be responsible for all stormwater service fees and charges, except as allowed by [Section 5.20.040](#).
- C. Billings may be prorated. The proration shall be a daily rate determined by dividing the annual minimum billing by three hundred sixty-five days times the number of days of occupancy from last meter reading and/or billing date.
- D. All money collected through stormwater fees and charges shall be used for the improvement, maintenance, and repair of the city's stormwater system

~~5.20.060 Stormwater Charges – When Delinquent~~

- ~~A~~E. The city shall bill stormwater fees and charges in the same manner and at the same times as it bills for water service, and shall combine the stormwater bill with the water and/or sewer bill. Deadlines for payment shall be the same as for water bills.
- ~~B. A delinquent fee, in an amount established by resolution of the City Council, shall be added to all delinquent accounts.~~
- ~~C. The finance director (or designee) is authorized to determine what constitutes a de minimis account balance and to waive the penalties in subsections B. and D. of this section in de minimis or extenuating circumstances.~~
- ~~D. In addition to other lawful remedies, the finance director may enforce the collection of charges authorized by this chapter by withholding delivery of water to any premises where the stormwater service fees and charges are delinquent or unpaid, following the procedures and standards for shutting off water service for non-payment of water bills as provided in Chapter 5.10. However, the finance director shall not deny or shut off water service to~~

~~any subsequent tenant based upon an unpaid claim for services furnished to a previous tenant who has vacated the premises.~~

5.20.080 — Appeal

~~Any customer aggrieved by any decision made with regard to the customer's account or a decision on charge reduction or avoidance may appeal to the city manager by filing with the city a written request for review no later than ten days after receiving the decision. The city manager's decision shall be subject to review by the City Council upon filing of an appeal within fifteen days of the notice of decision.~~

5.20.090 Right of Access

Employees of the city shall be provided access during regular business hours to all parts of the premises which include portions of the city stormwater system for the purpose of inspecting the condition of the pipes and fixtures and the manner in which the system is used. Should there be no one available on the premises, notice will be provided to the owner, tenant, occupant, or their agent that arrangements must be made to allow the inspection.

5.20.100 Tampering with System/Prohibited Discharges

- A. No unauthorized person shall damage, destroy, uncover, deface, or tamper with any conduit, structure, appurtenance, or equipment that is part of the city stormwater system. No person may alter any conduit, structure or equipment that is part of the city stormwater system except as authorized by the city. No person may fill or divert any open portion of the city stormwater drainage system except as authorized by the city.
- B. No person shall discharge or cause to discharge directly or indirectly to the stormwater system anything that could not be discharged to the sewage system under [Section 5.15.060C](#).
- C. No person shall discharge any sewage into the stormwater system.

- D. No person shall discharge any hazardous materials into the stormwater system. Application of normal amounts of garden and lawn fertilizer and pesticides to lawns and gardens shall not be considered a discharge of a hazardous material under this section.
- E. The city manager may adopt such rules and regulations as are necessary to protect the city stormwater system and the public health, safety and welfare. Violation of the rules or regulations are a violation of this chapter.

5.20.110 Responsibility for Private Stormwater Facilities

The owner of property where a private stormwater facility is located shall maintain the private stormwater facility in a properly functioning condition and shall operate the private stormwater facility to avoid flooding or erosion in excess of what would occur under natural conditions. An improperly maintained or operated private stormwater facility that results in flooding or erosion in excess of what would occur in natural conditions is a nuisance and may be abated as provided in [Chapter 8.10](#).

5.20.120 Violation—Penalty

A. A violation of any provision of this chapter is a civil infraction with a maximum subject to a civil penalty of \$1,000.00 not to exceed \$500.00. Each day during or on which a violation occurs or continues is a separate civil infraction violation.

B. Violations that constitute a health hazard are nuisances and may be abated as nuisance or by any other legal means of eliminating the hazard.

(Chapter 5.20 adopted by Ordinance No. 1951 on March 3, 2008; effective April 2, 2008)