

**TITLE VI**

**SEWER, WATER, STORMWATER, AND STREETLIGHTS**

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**CHAPTER 70  
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**70.001. Definitions.** Unless the context otherwise specifically requires, as used in SRC Chapters 70, 72, 73, and 74, the following mean:

- (a) City means the City of Salem, Oregon.
- (b) Director means the City Manager, or the department head charged by the City Manager with the implementation and enforcement of this Chapter, or that department head's designee.
- (c) Line means a pipe connecting a meter to a building's plumbing system.
- (d) Person means an individual, corporation, limited liability company, sole proprietorship, association, partnership, trust, cooperative, governmental unit, estate, or any other entity in law or fact.
- (e) Private stormwater facility means any facility that is not owned or operated by the City that has been installed or constructed for the purpose of removing pollutants from stormwater, or for controlling the discharge flow rate, flow duration, or flow quantity of stormwater.
- (f) Service lateral means a pipe connecting a water main to the water meter and water main; a pipe connecting a sewer main to the building's sanitary sewer or storm sewer.
- (g) Utility code means SRC Chapters 70, 71, 72, 73, 74, and 75.
- (h) Utility service means water service, wastewater service, stormwater service, or any combination of services, provided by the City to customers of the City's water, wastewater, and stormwater systems.
- (i) Water main means a pipe two inches or larger inside the diameter, installed in a public right-of-way or an easement, to which a service lateral is connected. (Ord No. 73-07; Ord No. 31-09; Ord No. 31-10; Ord No. 35-12)

**70.010. Authorization.** The Department of Public Works shall be responsible for extension, operation and maintenance of the water, wastewater and stormwater systems for the City of Salem. (Ord No. 17-77; Ord No. 30-97; Ord No. 73-07)

**70.015. Master Plans.** The Director shall prepare and update master plans for the expansion, construction, or reconstruction of the water, wastewater and stormwater systems. All construction of the water, wastewater and stormwater systems shall be in general conformance to the master plans. Master plans shall cover the expected service areas for the water, wastewater and stormwater systems, and shall include those portions of the systems outside the corporate limits of the City. Master plans shall be updated from time to time as circumstances change. (Ord No. 17-77; Ord No. 73-07)

**70.040. Service Areas.** For the purposes of requiring conformance to a master plan, the service area shall be that area within the Urban Growth Boundary so designated by the City Council. Any jurisdiction outside the City that is supplied with water, wastewater or stormwater treatment by the City shall conform to the appropriate master plan in construction of its facilities. (Ord No. 17-77; Ord No. 51-96; Ord No. 73-07)

**70.050. Authority to Prescribe Standards.** The Director shall have authority to prescribe standards of design, main sizing, materials, and workmanship consistent with established engineering and construction practice, which shall be applicable to all public and private water, wastewater and stormwater systems becoming a part of, or connected to, the water, wastewater and stormwater systems. (Ord No. 17-77; Ord No. 73-07)

**70.060. Administration; Rulemaking.** The Director shall administer and enforce the provisions of SRC Chapters 70, 72, 73 and 74, and shall have the authority to render written and oral interpretations, to adopt administrative rules and procedures governing use, operations and management of the water, wastewater and stormwater utilities. (Ord No. 17-77; Ord No. 73-07; Ord No. 31-09; Ord No. 31-10)

**70.070. Construction Permits.** Any person constructing a water, wastewater, or stormwater facility located in a public street or easement, or which will attach to the water, wastewater or stormwater systems, shall obtain a permit pursuant to SRC 77.090- 77.130. (Ord No. 17-77; Ord 73-07)

**70.080. Ownership of Privately Constructed Lines.** All public water mains, sewer lines, and stormwater conveyance facilities, which are privately constructed within public right-of-way or easements, connected to the water, wastewater, or stormwater systems, and accepted by the Director for City maintenance shall be deemed dedicated to public use and a part of the water, wastewater, and stormwater systems. (Ord No. 17-77; Ord No. 30-97; Ord No. 73-07)

**70.100. Private Stormwater, Wastewater and Water Systems.** A private stormwater, wastewater or water system may be approved by the Director when the following conditions are met:

- (a) The system will only serve developments in commercially and industrially zoned partitions or subdivisions, or multi-building developments located on a single lot or parcel; and
- (b) Each building under separate ownership in the commercially and industrially zoned partition or subdivision will have a separate water meter and monitoring manhole. The Director may grant exceptions to the requirement for monitoring manholes if the responsible party shows that the proposed uses will not have any likelihood of discharging hazardous or illegal materials; and
- (c) An agreement is executed by the property owner and recorded against each parcel or lot indicating that the systems serving the property are private; that the City has no responsibility to maintain the systems; that the systems will not be accepted by the City unless the systems are proven by the applicant to conform to the standards of the Department of Public Works; that grants

the City a perpetual right of access to read and maintain the meters, inspect the lines from the meters or manholes back to the public mains and that the property owners have assumed responsibility for any repairs required for the City; and

(d) The public wastewater and water lines and stormwater conveyance facilities necessary to serve adjacent properties and to provide other needed links in the overall collection or distribution systems are provided; and

(e) If the system is a private water system, water from the system cannot be submetered or resold to other parties; and

(f) If the system is a private water system, the water lines will conform to the water distribution standards of the City. (Ord No. 123-87; Ord 73-07; Ord No. 31-10)

**70.117. Operation, Maintenance, and Inspection of Private Stormwater Facilities.** Any person owning, operating, or occupying property on which a private stormwater-facility was constructed after January 1, 2011, shall:

(a) Maintain the stormwater facility so that it is in proper operation for effective pollutant removal, infiltration, and/or flow control; and

(b) Periodically inspect the stormwater facility to ensure the facility is in proper operation for effective pollutant removal, infiltration, and/or flow control; and

(c) Maintain a record of the construction of, and all maintenance and repair activities to, the stormwater facility; and

(d) Make plans, records, procedures, and schedules of maintenance available to the Director during inspection of the stormwater facility, and at other reasonable times upon request of the Director; and

(e) If a change of ownership occurs, transfer all records of installation, repair, and maintenance of the stormwater facility to the new property owner; and

(f) Inform future purchasers and other successors and assignees of:

(1) The existence of the stormwater facility; and

(2) The requirements for continued inspection and maintenance of the stormwater facility.

(Ord No. 35-12)

**70.120. Inspections.**

(a) When the Director deems it necessary to make an inspection to enforce the utility code, or when the Director has reasonable cause to believe a condition exists on a property that is in violation of the utility code, the Director may, in accordance with this section, enter the property at reasonable times to make inspections or to perform other duties imposed under the utility code.

(b) If the property is occupied, the Director shall first present the Director's credentials to the occupant and request entry. If entry is refused, the Director may seek to obtain permission from any other person entitled to lawful possession of the property, or obtain an administrative search warrant from the municipal or circuit court.

(c) If the property is unoccupied, the Director shall first make a reasonable effort to locate the owner or other person with control of the property and request entry. If the Director is unable, after making a reasonable effort, to locate the owner or other person with control of the property, or if entry is refused by the owner or other person with control of the property, the Director shall obtain an administrative search warrant from the municipal or circuit court. (Ord No. 35-12)

**70.200. Utility Service Rates, Fees and Charges.** Rates, fees and other charges for utility service, including, but not limited to, delinquency fees, reinstatement fees, and any other account fees shall be set by resolution of the City Council. (Ord No. 31-09)

**70.210. Application for Utility Service; Condition of Service.**

(a) A person desiring utility service shall provide the following information in making application for service:

- (1) The name of the applicant;
- (2) The location of the property to be served;
- (3) Whether or not the applicant is the owner of the property;
- (4) If the applicant is not the owner of the property, the name and mailing address of the owner or the owner's agent;
- (5) The mailing address for utility bills;
- (6) The type of utility service being sought, and, if water service will be provided, the intended use of water; and
- (7) Personal identifying information, property information, or any other information deemed necessary by the Director to establish an account or to ensure the identity of the account holder. All personal identifying information shall not be disclosed, except as is otherwise required by Oregon law.

(b) Every person, as a condition of receiving utility service, shall agree to comply with all ordinances, rules and regulations related to such service.

(c) Notwithstanding subsection (a) of this section, the obligation to pay for stormwater utility charges arises when a person responsible uses stormwater utility services. It is presumed that stormwater utility services are used whenever there is an improved premises. (Ord No. 31-09; Ord No. 31-10)

**70.220. Applicant Responsible for Bills.**

(a) Except as provided in subsection (c) and (d) of this section, payment of utility bills shall be the responsibility of the person having made application for utility service. This person may be the owner, tenant, agent, or other authorized representative responsible for occupancy of the premises.

(b) In the event the account holder is not the owner of the property for which utility service is being provided, the property owner may be held responsible for the account balance, past due amounts, charges, and fees related to the account if, within thirty days from the date the payment is due on the account, the City provides written notice of the delinquent status to the tenant and sends a copy of the notice by first class mail to the property owner at the last known address of the owner or owner's agent that is on file with the Director.

(c) 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 water utility charges shall pay the stormwater utility charges. If there is no water service to the property or if water service is discontinued, the stormwater utility charges shall be paid by the person(s) having the right to possess the property.

(d) For properties with a history of delinquent utility accounts, meaning one or more accounts in delinquent status within the past five years, the Director may require the owner of the property to be responsible for payment of future utility bills as a condition of service. The Director may alternatively require that the owner of a property with a history of delinquent utility accounts agree in writing to be held liable for the unpaid account balance of their tenant, agent or other authorized representative pursuant to subsection (b) of this section. (Ord No. 31-09; Ord No. 31-10; Ord No. 5-15)

**70.230. Billing.**

(a) All billings for utility service shall be made monthly, based upon the rate resolution established by City Council.

(b) Administrative services charges, which include, but are not limited to, activation fees, reactivation fees, suspension fees, fees for tampering with or bypassing water meters, locking

devices, or otherwise interfering with any City equipment, or any other fees and charges may be charged to the customer's account and included in the monthly billing. (Ord No. 31-09; Ord 31-10)

**70.240. Bills, When Due.** Utility service bills are due and payable twenty five days from the billing date, and shall be delinquent thereafter. (Ord No. 31-09)

**70.245. Payments, How Applied.**

(a) For customers receiving only one utility service, payments made by the customer to the City shall be credited first against any administrative services charges until 100% of the balance on the administrative services charges are paid and then to the streetlight fee, then to the customer's utility account.

(b) For customers receiving two or more utility services, payments made to the City will be credited in the following manner:

(1) First to any administrative services charges until 100% of the balance on the administrative services charges is paid;

(2) After the administrative services charges are fully paid, next to the streetlight fee until 100% of the balance of the streetlight fee is paid;

(3) After the administrative services charges are fully paid and the streetlight fee is fully paid, next to the account connected with the stormwater utility until 100% of the balance on the stormwater utility account is paid;

(4) After the administrative services charges, streetlight fee and stormwater utility account is fully paid, then to the wastewater utility account, until 100% of the balance on the wastewater utility account is paid;

(5) After the administrative services charges, streetlight fee, stormwater utility account, and wastewater utility account are fully paid, then to the water utility account until 100% of the water utility account is paid. (Ord No. 31-10; Ord No 5-15)

**70.250. Delinquent Accounts.**

(a) When a person's account is delinquent, the person will be provided a notice of delinquency by first class mail and given no fewer than seven calendar days in which to make payment or request a hearing as provided in SRC 70.260. If payment is not received, or a hearing requested, by the due date shown in the notice of delinquency, the user will be provided a notice of discontinuation of services by first class mail, stating that service to the premises will be discontinued if payment is not received within five days from the date set forth in the notice of discontinuation of service.

(b) Water service may be discontinued to users having delinquent wastewater, stormwater, streetlight or administrative service charges, when in the judgment of the Director such action is necessary to enforce collection of such delinquent amounts.

(c) Unless other arrangements have been approved by the Director under subsection (d) of this section, service shall not be reinstated until the delinquent account, including all user fees and account fees, have been paid in full.

(d) If the Director finds that the public's interest can be protected and, at the same time, an undue financial burden on the user can be reduced, the Director may accept a payment arrangement for delinquent user charges, and may adjust account fees as appropriate under the circumstances. (Ord No. 31-09; Ord No. 31-10; Ord No. 5-15)

**70.260. Hearing on Disputed Bills.**

(a) Any person who is responsible for payment of a utility bill who disputes the amount of the charges may submit a request for hearing in writing on such disputed bill. The request for hearing shall be filed with the Director within seven calendar days of the date of the notice of delinquency provided to the person pursuant to SRC 70.250. Upon the filing of a request for hearing, all

proceedings relative to collection of the utility bill shall be stayed until the final decision is made as hereinafter provided.

(b) The Director shall schedule a hearing on the disputed bill and shall notify the user in writing or in person of the time, place, and date of such hearing. Upon conclusion of the hearing, the Director shall make a final determination as to the amount due and owing on the disputed bill and shall notify the user in writing of the decision.

(c) If the Director finds that charges are due and owing, the person shall have seven calendar days from the date set forth in the notice of the decision to make full payment. If payment is not received within in such seven-day period, the person shall be provided a notice of discontinuation of services by first class mail, stating that service to the premises will be discontinued if payment

is not received within five days from the date set forth in the notice of discontinuation of services.

Discontinuance of water service for failure to make payment pursuant to this subsection shall not take place unless notice is given as provided in this subsection. (Ord No. 31-09)

**70.270. Temporary Suspension of Service.** A person may request a temporary suspension of utility service for a period not to exceed ninety days. The person must submit a suspension request in writing and pay a suspension fee. If the Director grants the request, the person's account will be frozen and all service to the person's property will be discontinued for the period of time allowed by the Director for the suspension. (Ord No. 31-09)

**70.280. Denial of Utility Service.**

(a) Utility service may be denied to any person for one or more of the following reasons:

- (1) The person has an unpaid utility bill or account fees at the current or another address;
- (2) The person caused damage or loss of revenue resulting from tampering with or bypassing water meters, locking devices, or otherwise interfering with any City equipment; or
- (3) The person fails to provide adequate personal identifying information to establish a new account or to resume utility service where service has been disconnected.

(b) Utility service may be denied to any property owner and subsequent tenant of the property owner, if a former tenant at the property has:

- (1) An unpaid water bill or account fee, or caused damage or loss of revenue resulting from tampering with or bypassing water meters, locking devices, or otherwise interfering with any City equipment; and
- (2) If, within thirty days from the date the payment was due on the account, the City provided written notice of the delinquent status to the tenant and sent a copy of the notice by first class mail to the property owner at the last known address of the owner or owner's agent that is on file with the Director.

(c) Upon rectification of the cause of the denial of service by the person or property owner and paying any account fees, the Director may reinstate service. (Ord No. 31-09)

**70.290. Billing Errors; Adjustment of Bills.**

(a) The Director may adopt administrative rules governing the adjustment, refund, or waiver of utility billings where such adjustment, refund or waiver is necessary for the proper conduct of business. Adjustments shall be limited to credits to an active account or to additional charges to an active account. When the adjustment would result in a credit to a person who has no active account, a refund shall be issued if the person can be reasonably located.

(b) The Director may make adjustments to water or wastewater use charges where the user demonstrates that a leak exists between the meter and the final point of delivery to the user. No adjustment shall be made unless the person made reasonable efforts within thirty days from the date the leak was first detected to initiate repairs, and the repairs were completed within ninety days of detection of the leak.

- (c) The Director may make adjustments to a stormwater account where the user demonstrates that the City erred in calculating the impervious area used to determine the user's stormwater bill.
- (d) The Director may authorize the adjustment of a utility billing when a billing error has occurred. Adjustments shall not be made after a period of two years from the date the Director received notice of the error. Notwithstanding any other provision in this subsection, eligibility to receive an adjustment on an account shall terminate six months after the date a final bill was issued for that account.
- (e) A person who receives a back billing or a delayed billing will be offered the opportunity to pay the balance due over a period of time determined by the Director. (Ord No. 31-09; Ord No. 31-10)

**70.295. Disposition of Utility Funds.** All funds derived from the collection of utility service charges shall be credited to the utilities fund. As far as is practical, funds earned by each utility shall be segregated. Each utility may expend funds for the construction, operation, maintenance, payment of principal and interest of any bonds issued, and other expenses related to that utility. (Ord No. 31-09)

**70.300. Water and Sewer Utility Franchise Fee.**

- (a) For the right and privilege to place, lay, maintain and operate in, upon and under the streets, alleys, public highways, and other public places a water, wastewater and stormwater system, there shall be annually charged to and collected from the utilities fund established pursuant to SRC 70.295 an amount equal to five percent of the gross revenues derived from utility service charges collected inside the City.
- (b) The payment of the franchise fee set forth in subsection (a) shall be made periodically, but not less than annually, by transferring the appropriate sum of monies from the utilities fund established pursuant to SRC 70.295 to the General Fund.
- (c) The City streetlight system is not considered a utility as that term is used in this Chapter, and are not subject to the fee established in this section. (Ord No. 64-90; Ord No. 27-91; Ord No. 76-94; Ord No. 59-99; Ord No. 73-07; Ord No. 31-09; Ord No. 5-15)

**70.310. Stormwater Credits.**

- (a) The Director is authorized to implement and administer a program to allow customers to reduce their stormwater utility bill through the installation of approved stormwater management facilities.
- (b) The Director shall promulgate administrative rules to implement the program, which shall contain the following:
  - (1) Definitions for all terms and concepts applicable to the program;
  - (2) Criteria to be used to determine eligibility for the credit;
  - (3) Methods and means for calculating the amount of the credit to be awarded;
  - (4) Procedures for verifying the validity and accuracy of the credits;
  - (5) Requirements that stormwater facilities be properly maintained and operated and that the City must be granted access to the property for limited inspections of stormwater facilities;
  - (6) Methods of enforcing the administrative rules; and
  - (7) Procedures for review and reconsideration of the Director's decisions regarding the credits.(Ord No. 31-10)