

## Chapter 13.13 SURFACE WATER MANAGEMENT

### 13.13.010 Definitions.

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

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

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

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

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

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

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

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

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

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

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

“**Customer**” see “User.”

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

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

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

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

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

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

**“Dwelling unit”** means any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **13.13.020 Fees, rates and charges – Council authority.**

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

### **13.13.030 Fees, rates and charges set by Resolution.**

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

### **13.13.040 Application for service.**

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

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

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

#### **13.13.050 Deposit requirements.**

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

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

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

#### **13.13.060 Rates – Generally.**

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

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

#### **13.13.070 Service connection charges – Generally.**

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

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

#### **13.13.080 Rates – Outside-City.**

No services will be provided outside of City limits.

### **13.13.090 Charges for restoration of service.**

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

### **13.13.100 Computation and collection of charges.**

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

### **13.13.110 Revenues – Deposit and use.**

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

### **13.13.120 Billing – Mailing address.**

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

### **13.13.130 Billing – Payment responsibility.**

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

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

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

### **13.13.140 Reserved.**

### **13.13.150 Adjustment of accounts – No service provided.**

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

### **13.13.160 Reserved.**

### **13.13.170 Liens for delinquent utility account.**

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

**13.13.180 Exclusive control of system and services by City.**

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

**13.13.190 Service discontinuance at customer request.**

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

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

**13.13.200 Abandoned and non-revenue-producing services.**

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

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

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

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

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

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



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

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

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

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

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

#### **13.13.230 Disconnection and reconnection procedures.**

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

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

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

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

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

#### **13.13.240 Unsanitary deposit of waste.**

It is unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other unsanitary waste that can drain into or impact a storm sewer or drainageway. This includes ranging livestock, poultry, or pet-runs near or within storm facilities such as bioswales.

#### **13.13.250 Treatment of storm sewer required.**

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

#### **13.13.260 Unlawful sewage disposal facilities.**

Except as provided in this chapter, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage that may have an effect on groundwater or surface water within the City limits.

#### **13.13.270 Storm sewer connections required.**

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

#### **13.13.280 Private Storm Sewer Disposal – When permitted.**

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

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

#### **13.13.290 Private Storm Sewer Disposal – Operation and maintenance.**

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

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

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

#### **13.13.310 Unauthorized connections and disturbances.**

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

#### **13.13.320 Costs of building storm sewer borne by owner.**

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

#### **13.13.330 Building storm sewer for each lot or parcel.**

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

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

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

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

#### **13.13.340 Materials and connections – Private side.**

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

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

#### **13.13.350 Elevation.**

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

#### **13.13.360 Connection of sources of surface runoff.**

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

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

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

#### **13.13.370 Inspection – Connection to public storm sewer.**

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

#### **13.13.380 Protection of excavations – Restoration of public property.**

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

#### **13.13.390 Unlawful discharge of storm and other waters.**

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

#### **13.13.400 Regular Utility Service – Rules and regulations.**

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

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

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

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

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

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

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

#### **13.13.410 Inspection and maintenance – Responsibility.**

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

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

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

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

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

#### **13.13.430 Inspection and maintenance – Grease traps and interceptors.**

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

#### **13.13.440 Improper connection and notice to repair.**

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

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

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

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

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

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

#### **13.13.450 Nonconformance – Notice.**

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

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

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

#### **13.13.460 Nonconformance – Charges.**

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

#### **13.13.470 City may assume cost of repairs.**

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

#### **13.13.480 Damage to sewage works prohibited.**

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

#### **13.13.490 Entry on property.**

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

#### **13.13.500 Observance of safety rules—Liability of City.**



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

#### **13.13.510 Entry and work on easements.**

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

#### **13.13.520 Certain discharges subject to approval.**

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Director of Public Works that such wastes can harm the storm sewer system or public drainageways. The substances prohibited are including but not limited to the following:

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

#### **13.13.530 Decision of Director of Public Works regarding harmful wastes.**

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

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

#### **13.13.540 Notification of Spills.**

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

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

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

#### **13.13.550 Illicit discharges and connections.**

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

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

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

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

#### **13.13.560 Reporting of harmful discharges.**



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

**13.13.570 Construction – Public works design standards.**

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

**13.13.580 Construction – Construction specifications.**

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

**13.13.590 Construction – Permit required for storm sewer work.**

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

**13.13.600 Construction – Erosion prevention and sediment control.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **13.13.610 Construction – Cost of installation and connection.**

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

#### **13.13.620 Construction – Cleanout specifications.**

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

**13.13.630 Construction – Separate storm sewers for each building.**

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

**13.13.640 Construction – Private storm sewer restrictions.**

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

**13.13.650 Construction – Leaks and extraneous discharges – Monitoring procedures.**

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

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

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

**13.13.660 Construction – Capping and inspection prior to abandonment.**

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

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

**13.13.670 Construction – Public Works Inspection fees.**

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

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

**13.13.680 Construction – Bonding and insurance.**

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

### **13.13.690 Construction – Storm sewer main extensions.**

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

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

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

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

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

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

### **13.13.700 Violation—Notice.**

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

### **13.13.710 Violation—Penalty.**

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

### **13.13.720 Violators liable to City.**

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